

Exhibit 1

HISTORY OF SAN DIEGO COUNTY

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workers), the San Diego Reptile Club, San Diego Aquarium Association, San Diego Shell Club, Mineral Society of San Diego, Junior Naturalists' Club, and Sunset Hikers. The facilities of the San Diego Society of Natural History and its library are available to these club members at all times. Reciprocally, the clubs are often of value to the Society in the specimens which they donate and the activities which they sponsor. For example, the exhibit of live tropical and other fishes, which has become a prominent attraction in the Museum, was started through the agency of the Aquarium Association.

As we write, the Natural History Museum is performing a function different from any in the 62 years' history of the Society that operates it. It has temporarily become the "Palace of Natural History" and is an integral unit in the California Pacific International Exposition. All its operations, for the time being, are centered on the largest possible contribution to the success of this great enterprise.

It may seem a far cry from the quiet gatherings of a few kindred spirits, back in the '70s, which formed the beginnings of the San Diego Society of Natural History, to 1936 conditions when over 13,000 persons have been counted entering the doors of its Museum in a single day; from the informal display of a few personally collected specimens to present-day possessions of nearly half a million classified items. Reviewing the presidents of the Society who have carried the banner during these years, we find that George W. Barnes served from 1874 to 1888, Daniel Cleveland from 1888 to 1890 and again from 1893 to 1904, B. F. McDaniel from 1890 to 1893, Anthony W. Vogdes from 1904 to 1920, Fred Baker from 1920 to 1922 and Joseph W. Sefton, Jr., from 1922 to the present time. Behind these leaders has been the indomitable spirit of those who have carried forward through the years the torch of the San Diego Society of Natural History, paralleling in the development of their organization the growth of the city which has been its home.



SAN DIEGO'S MUNICIPAL HISTORY

By ALLEN H. WRIGHT, City Clerk

The commemorative postage stamps printed by the United States government for the California Pacific International Exposition in 1935 bear the following: "1835—San Diego—1935." The use of the earlier date caused much comment and evoked many inquiries as to its application to San Diego, which did not receive its charter until 1850.

Founded in 1769 by the Franciscans, San Diego was for sixty-six years under military rule, the few inhabitants living in their adobe homes under the protection of the soldiers of the presidio. It was not until January 1, 1835, that elected officers of the pueblo of San Diego assumed office and civil government, for the first time, became dominant. This event, then, explains the use of the date of 1835 on the exposition stamps and gives authority for considering the exposition as marking the first centenary of San Diego's existence as a municipality.

The first officials of the pueblo of San Diego, chosen at the election held December 21, 1834, were as follows: Alcalde, or mayor, Juan Maria Osuna; regidores, or aldermen, Juan Bautista Alvarado and Juan Maria Marron; syndico procurador, or attorney, Henry D. Fitch. Thirteen votes had been cast to bring into being this first town council, or ayuntamiento. San Diego, however, had its own council for but three years, before, owing to its small population, it was made a part of the sub-prefecture of Los Angeles, with its affairs conducted by a juez de paz, or judge, named annually by the governor. Jose Antonio Estudillo was the first to occupy this post. This status continued until the time of the Mexican War.

The City of San Diego began to function as a municipality under American rule with an election on June 16, 1850, following the setting up of the County of San Diego, which, on February 18th of that year, had been one of the original twenty-seven counties forming the newly admitted state of California.

In the archives of the city clerk's office are the original minutes of the meeting of the first common council, held on June 17th, the day after the election, at four o'clock in the afternoon. John Hays, who, on April 1, had been elected the first county judge, was present to administer the oath of office to Joshua H. Bean, the last to hold the title of alcalde, under the Mexican government, who now became the first to hold the title of mayor under the new order of things.

Following the induction of the mayor into office, Judge Hays swore in the first group of councilmen, which included Charles Haraszthy, William Leamy, Charles R. Johnson, Charles P. Noell, and Dr. Atkins S. Wright. The last named was elected as president of the board, and John Conger was appointed secretary pro tempore. Five days later the council made Conger city clerk. In September ill health forced Conger's retirement and W. E. Rust was appointed to the position. The latter, in turn, was succeeded in January, 1851, by A. J. Matsell, who presented his resignation on July 8, of that year. He was succeeded by Frederick J. Painter.

Noell

Changes had also taken place, during the city's first year, in the make-up of the common council, with Johnson resigning August 5 and being succeeded on August 12 by George F. Hooper. On August 24 Noell resigned and his councilmanic robes fell upon Philip Crosthwaite, who took office on September 9. In January, 1851, the entire personnel of the council was changed by the election of A. Blackburn, John Brown, J. Jordan, G. P. Tebbetts and E. Wall, with D. B. Kurtz gaining office as the city's second mayor.

On January 30, 1851, the seat of Mr. Jordan having been contested and the decision being against him, a vacancy was created and at an election held on February 10 Thomas Wrightington was chosen. By July two more members dropped out, Messrs. Blackburn and Wall, and their places were filled by the election of John Dillon and John Judson Ames. The latter was the editor of San Diego's first newspaper, the Herald. In October Wrightington resigned, and for the remainder of the year the city's business was conducted mainly by three councilmen.

The first Monday in January, 1852, witnessed another election, and, once more, a new slate went into office by the selection of Charles Fletcher, Charles Johnson, William Leamy, R. E. Raimond and William P. Toler. However, these were destined to hold their positions but a short time, and on February 28, of that year, they held their last meeting as a common council and adjourned sine die.

→ The little municipality began functioning under a board of trustees on March 25, 1852, with C. P. Noell, C. J. Coutts and G. P. Tebbetts in the new offices. They were assigned duties as follows: Noell was president of the board, Coutts was treasurer and Tebbetts was secretary. The following day the board, by resolution, called upon all previous charter officers to submit reports on the city affairs which had been handled by them during the year or two they had been in charge.

On May 20 Cave J. Coutts resigned from the board, giving as his reasons the fact that he was being called away from San Diego for an indefinite period. On June 9 Trustees Noell and Tebbetts met and received the resignation of Noell, leaving but Tebbetts as sole trustee and on June 10 he submitted his resignation to Judge Hays. A special election was held, at which W. C. Ferrell, James W. Robinson, and Louis Rose were chosen trustees, and on July 31 they organized by choosing Robinson as president, Ferrell as secretary, and Rose as treasurer. This new board on August 25 "entered upon an investigation of the liabilities of the former corporation of the City of San Diego," and tried to find ways and means to settle all indebtedness outstanding, as evidenced by "scrip," which had been freely issued, in lieu of coin of

the realm. The sale of city lands appeared as the most feasible way to attain the desired goal.

The trustees, on August 25, 1852, took the first steps to inaugurate San Diego's first "direct relief" program, by drawing on the State Treasurer for \$2,000.00, which had been appropriated for the care of indigent sick "arrising at the port of San Diego."

Meetings were held variously at the city hall, the court house and at the home of the president of the board. To expedite the settlement of the town's outstanding debts the board authorized buyers of city lands to turn in, as part payment, any evidences which they might hold of money owed them by the town, but there was provision that no interest should be expected. The minute records of the board of trustees show that many who had held office since the city's incorporation in 1850 were among the buyers at prices ranging from \$5.00 to \$65.00 per lot. The lots sold were about evenly divided between La Playa and Old Town. No minutes exist covering the period from January to June, 1853.

From moneys received from land sales and taxes the board of trustees on July 29, 1853, attested to their stewardship by listing the numbers of old city scrip which had been paid by them, amounting to over \$5000.00. Thus was the town of San Diego again able to look the world in the face with this very satisfactory showing of obligations met, these including some of several years' standing.

On August 23, 1853, another election was held and the following trustees were chosen: Louis Rose, president; George Lyons, treasurer, and E. W. Morse, secretary. To them was handed the heritage of much city scrip still unpaid, and the sale of additional lands was finally resorted to as the only means of getting the town entirely out of debt.

In December the board of trustees "went moderne" and ordered the sale at auction of the tile on the city hall roof, and asked bids for shingling the structure. The job was let to John VanAlst for \$292.75.

Again, on March 6, 1854, an "annual election" was held. The same trustees were elected and assumed the same offices as before.

Municipal affairs ran along smoothly for some months, and then came an election in April, 1855, at which Julian Ames took the place of Louis Rose, and at the organization meeting Mr. Ames was chosen president, while Messrs. Lyons and Morse remained in their respective positions of treasurer and secretary.

On October 19 of that year there was held an election to decide whether or not the board of trustees should be authorized to convey to the San Diego & Gila Southern Pacific and Atlantic Railroad Company two leagues of pueblo

lands. The minutes of the board show that the canvass of the election returns presented the most unusual fact that the vote was unanimously in favor of the grant. Everybody seemed to wish to help the railroad company in its financial efforts to raise money, but it developed later that San Diego had to wait many a long year before it really had rail connection with the outside world.

This same board of trustees in December, 1855, signed a memorial to Congress, asking an appropriation to finance the work of turning the San Diego river from its accustomed course so that it should empty into False Bay (now Mission Bay).

An entirely new board of trustees was chosen at the election in March, 1856, consisting of Thomas B. Collins, Joseph Smith and Thomas R. Darnall, who took positions as president, treasurer, and secretary respectively.

This board, in September, accepted the map made by Charles H. Poole as the official map of San Diego, and allowed him a fee of \$300.00.

There are no minutes extant from the meeting of December 23, 1856, to that of July 14, 1857, but in the meantime there had evidently been held another election, at which were chosen the following trustees: Henry H. Whaley, Harvey C. Ladd, and David B. Hoffman. Whaley was selected as president, Hoffman as secretary, and Ladd as treasurer.

Again from July 18 to October 1, 1857, no minutes appear, and the town seemed to get along with no more meetings between that of October 1 and that of May 4, 1858, when a newly-elected board assumed office, consisting of Thomas Whaley, who became president, Joseph R. Gitchell, secretary, and Frank Ames, treasurer.

This board entered in its minutes for May 18, 1858, a request that the recent treasurer and secretary furnish forthwith a correct report of the condition growing out of the fact that their books had been left in an unfinished state, "rendering it impossible to say how the city business now stands." The new treasurer and secretary were instructed to leave sufficient space in their respective books to "fill in these transactions." The minute books, however, do not show that this omission was ever rectified.

Between July 3, 1858, and March 23, 1859, there were evidently no board meetings, but on March 7 there had been another election and J. C. Bogart became the new president of the board with Frank Ames as treasurer and James Donohoe as secretary. The board voted to meet on the first Saturday of each month, but for six successive months the minutes show adjournment because there was no business to transact.

Frank Ames, having been elected county treasurer, resigned from the board of trustees in September, and W. W. Ware was chosen to succeed him. Again, for three months, there was no business before the board.

On March 5, 1860, a new board was elected and R. B. Tebbetts became president, D. A. Hollister secretary, and Marcus Schiller treasurer. The only business for the meetings during the remainder of the year had to do with the sale of some city lands and the payment of election expenses. There are no minutes, and evidently no meetings, from November 21, 1860, to June 30, 1862—more than a year and a half. No record appears concerning the holding of any intervening elections, but on the latter date a new board assumed office, with David B. Kurtz as president, F. L. Brill as secretary, and James Smycaffer as treasurer.

There is a minute record under date of July 7, 1862, showing an order that "the Indian Rancheria be removed one half mile from any town residence," and sheriff was asked to execute the order. On July 12 Sheriff James McCoy presented a bill for \$5.50 for his services in this connection, which was ordered paid.

Evidently the town got along without board meetings for nearly three years as the next entry in the minutes is on March 30, 1865, when again a new board took office. Andrew Cassidy became president, George A. Pendleton, secretary, and Joseph S. Mannasse, treasurer. One meeting was held on April 8, but there was no business to transact.

More than two full years elapsed before another board entered upon its duties on April 30, 1867. J. S. Mannasse was chosen president, Thomas H. Bush, secretary, and Ephraim W. Morse, treasurer. It was this board which authorized the sale of the city lands which Alonzo E. Horton bought and named "Horton's Addition," now comprised in the main business section of the city of San Diego and blocks immediately adjoining. Much other city owned real estate was sold by this board.

Important to the city and leading toward its later selection as a military base was the action of the board of trustees as set out in the minutes for December 6 and 7, 1867, when a bill was drafted and ordered sent to the State Legislature for enactment, whereby the board would be authorized "to convey to the United States such Pueblo or city lands . . . as the United States or the authorities thereof may require for military or naval purposes." This action had been brought about by the request from the War Department, to clear up any doubt concerning the title to the land on Point Loma, now generally known as the U. S. Military Reservation. The President of the United States in 1852 had reserved the land for military purposes, but the federal courts had later decreed that title was in the City of San Diego. The actual transfer, following consent by the Legislature, was authorized in 1868.

On March 16, 1868, Trustee Morse resigned, and the minutes as contained in Book "A" of City Records, conclude with the statement that "the board agreed to adjourn to meet Old Sine Die."

A new board took office on April 29, 1868, following two elections, one on March 2 and another on March 28, made necessary by the fact that there had been a tie vote at the first. Jose Guadalupe Estudillo became president, Joshua Sloane, secretary, and Marcus Schiller, treasurer.

This board, on May 26, adopted the resolution which reserved from sale and set aside for park purposes Pueblo Lots 1129, 1130, 1131, 1135, 1136, 1137, 1142, 1143 and the "vacant part" of 1144. This area was long known as the "1400 Acre Park," but was later given the name of "Balboa Park."

On February 20, 1868, the board of trustees adopted an ordinance creating a board of health, "with power to take measures for the vaccination of the population . . . the care of the sick, and to provide for poor patients suitable provisions and medicines, etc.," and steps were taken to secure a site for a city hospital.

March 1, 1869, saw another election at which James McCoy, Matthew Sherman, and Jose G. Estudillo were chosen as trustees. "Father" A. E. Horton ran fourth in the contest. Organizing on March 5, McCoy was elected president, Sherman, secretary, and Estudillo, treasurer. This new board put a stop to the promiscuous sale of the city lands, which had marked the past several years, until a careful check could be made of lands which had actually been deeded.

At the annual election held on Monday, March 7, 1870, votes were cast at two polling places—No. 1, at "City Hall Building" in Old Town, and, No. 2, at Horton's Hall, in Horton's Addition to San Diego. The same trustees as elected in 1869 were returned to office at the 1870 election by votes of 200 each for McCoy and Estudillo and 199 for Sherman. Each took the same office that he had held before. However, for some reason not evident in the minutes, another election was called for Sunday, May 1, at which James McCoy was again elected, while Estudillo and Sherman were succeeded by C. W. Lewis and A. B. McKean. Upon organization Lewis became president of the board, with McKean as secretary, and McCoy as treasurer.

The board at its meeting on May 12 resolved as follows: "That we do now adjourn to meet at New San Diego in such building as the Board may be able to procure at a price not to exceed fifty dollars pr. month." On August 22 it was decided to hold meetings "in the room under the San Diego Union," at a monthly rental of \$15, the lease to run until the following March.

In the election of March 6, 1871, McCoy and McKean were returned as trustees, but Lewis was replaced by W. S. McLellan, and on the 11th McCoy

and McKean continued as president and secretary, respectively, while McLellan became treasurer. The San Diego Daily Union was made the official paper for all city advertising. S. E. Abels, on March 30, was employed as clerk of the board at \$75 per month. In April the trustees accepted the offer of T. S. Moore "to give free use of his office on 5th Street for the meetings of the board." However, on October 5, the secretary reported that he had "rented a room in the house belonging to H. H. Daugherty opposite the Horton House to be used as office of this Board, at a monthly rental of \$10.00."

In the call for an election to be held on Thursday, May 9, 1872, there appears the first mention of a division of the city into wards—five in number. The board of trustees was increased to five, one from each ward, and the tax collector (ex-officio city marshal) and the assessor were made elective officers. The trustees elected, in their order by wards, were Jose G. Estudillo, E. G. Haight, W. J. McCormick and D. W. Briant, with a tie vote in the fifth ward for John M. Boyd and Matthew Sherman. At a subsequent special election Boyd received a majority vote. Adolph G. Gassen was elected tax collector and M. P. Shaffer assessor.

The new board chose McCormick as president, Estudillo as treasurer and Haight as clerk. For the first time this board adopted a full "Order of Business and Rules of Order."

In March, 1873, J. M. Boyd temporarily succeeded McCormick as president of the board, the latter resigned as trustee. To fill the vacancy a special election was held in the third ward on April 12, at which W. A. Begole received 51 votes out of the 52 cast, the other being blank. D. W. Briant was chosen on April 21 as president.

The annual election of municipal officers on May 14, 1874, brought to the board the following: 1st ward, J. G. Estudillo; 2nd ward, M. Keating; 3rd ward, W. A. Bogole; 4th ward, E. A. Veazie; 5th ward, J. M. Boyd. A. P. Knowles and M. P. Shaffer were elected tax collector and assessor, respectively. Veazie was chosen president of the board and Keating, city clerk. J. G. Estudillo was, on July 6, elected city treasurer and took the office, agreeing to "perform the duties without cost to the city from this day forward." President Veazie attended the meeting of November 2, but the minutes of November 4 announce his death, and Estudillo was made president pro tem. At the meeting of January 4, 1875, the board adopted resolutions of respect on the death of Mr. Veazie, the first city trustee to have died in office. A special election on January 16 resulted in the selection of D. W. Briant as trustee from the fourth ward to succeed Mr. Veazie, and on February 1 Trustee Begole was chosen president of the board.

Another change in the board came in December, 1875, by the resignation of Trustee Estudillo of the first ward. Patrick O'Neill was elected to fill the vacancy. At the regular election on April 11, 1876, the following were elected trustees in the order of wards as follows: Patrick O'Neill, D. O. McCarthy, W. A. Begole, D. W. Briant, and J. M. Boyd. D. Burroughs was elected assessor and H. T. Christian, tax collector. Mr. Boyd was chosen president of the new board, and S. Statler, city clerk. Philip Morse was named as city treasurer.

This board submitted to the voters on December 30, 1876 propositions to issue bonds in the amount of \$156,250.00 and purchase the property of the San Diego Water Company, and both questions were defeated by large majorities with a total vote of 506.

Trustee McCarthy succeeded Mr. Boyd as president on April 2, 1877. City Tax Collector Christian resigned and a special election was held on April 28 at which A. Pauly was chosen to succeed him. At this election, also, E. O. Rogers was elected trustee from the 5th ward to succeed J. M. Boyd, resigned. On September 19 the board, following hearings regarding City Treasurer Morse's action in refusing to pay interest coupons on certain city bonds, whereby "the City of San Diego has sustained irreparable damage to her credit at home and abroad," declared the office vacant. W. L. Williams was elected to the position, but declined. The board then elected William X. Gardner to the post. Mark P. Shaffer, in October, 1877, succeeded S. Statler as city clerk.

The election of May 9, 1878, brought to the board James McCoy as trustee for the 1st ward, D. O. McCarthy, 2nd; A. H. Julian, 3rd; D. W. Briant, 4th, and E. O. Rogers, 5th. A. Pauly was re-elected tax collector without opposition, and H. M. Bentzel was chosen assessor. Mr. McCarthy was elected president of the board. Mr. Shaffer was again named city clerk, and E. W. Morse became city treasurer. Mr. Shaffer resigned as clerk February 3, 1879, and H. T. Christian was given the position.

At the meeting of June 14, 1879, the board adopted an ordinance creating the office of city janitor whose duty it should be "to keep the City Hall in order and light the same for all meetings of the board, to see that the books and personal property of said City are safely kept, to attend all meetings of said board and act as its executive officer." To this important post was appointed John A. Thoman.

In July another elective city official died in office, H. M. Bentzel, city assessor, and the minutes of the board contain in full a lengthy resolution concerning his passing. At a special election on August 2 H. T. Christian, then city clerk, was elected to succeed Mr. Bentzel, and held the office until

the city election of May 1, 1880, when M. D. Hamilton was elected, without opposition.

At this time the new board of trustees, as elected by wards, was as follows: 1st ward, James McCoy; 2nd ward, Samuel Slade; 3rd ward, James M. Pierce; 4th ward, John H. Snyder; 5th ward, S. P. Jones. A. Pauly was re-elected city tax collector. Mr. Jones was selected as president of the board. Thomas Whaley succeeded H. T. Christian as city clerk.

The new board, by ordinance, decided to hold its monthly meetings on the last Saturday of each month, in the room of the board of supervisors in the court house, and the records and furniture were ordered moved from the A. E. Horton property to the new place of meeting, thus placing city and county administrative offices under the same roof. The iron jail which had been in "the City Hall Yard" was also ordered removed to "the County Court House Yard." The first meeting under the new arrangements was held June 26, 1880.

On August 27 of the same year the trustees voted to adopt the assessment made by the county assessor on the realty and other property within the city limits as the city's assessment roll for that year. The city assessor was instructed to prepare his roll on that basis. Similar action was taken the following year. The assessment roll for 1881 showed a total valuation for taxation purposes of \$1,937,377.00.

The next city election, held May 11, 1882, returned to office Trustees McCoy, Slade, Snyder and Jones, but the third ward chose a new trustee—Arnold Schneider. A. Pauly and M. D. Hamilton were elected tax collector and assessor, respectively, almost without opposition, although some voter in the third ward cast a ballot for Hop Lee and Wah Sing for the respective offices. Still another Chinese, Sing Lee, received one vote for library trustee. This was the first time in the city's political history that an Oriental appeared in election returns. S. P. Jones was chosen president of the new board. H. T. Christian was named as city clerk and Bryant Howard as city treasurer.

At this election a board of five library trustees was chosen for the first time. The successful candidates were George W. Marston, Robert M. Powers, Bryant Howard, E. W. Hendrick and George N. Hitchcock.

The amount of taxes charged against the tax collector for 1882 was \$27,189.84.

The board on January 10, 1883, granted a street railroad franchise to O. S. Witherby, the line starting from the depot at the foot of D Street (now Broadway) and running to 5th, down 5th to K, and thence southeasterly by 16th Street and M Street (now Imperial Avenue) to the depot grounds at 22nd and M Streets. In the same franchise there was provision for another

line to run out D Street from 5th to 12th and then join the other at K Street. The sum of \$20.00 was fixed as the annual license for each car operating on this street railroad.

On November 16, 1883, the resignation of S. P. Jones as trustee from the fifth ward was accepted, and the board continued with but four members until an election was held on May 8, 1884, at which time W. W. Stewart was chosen to succeed S. Slade in the second ward and M. Sherman was elected to succeed S. P. Jones in the fifth ward. James McCoy, A. Schneider, and John H. Snyder were elected to succeed themselves in the first, third, and fourth wards, respectively.

The question of reorganizing the city under a new act was defeated, with a vote of 187 for and 199 against.

M. D. Hamilton, unopposed, was re-elected assessor. A. Pauly, incumbent, was re-elected tax collector by 199 votes as against 188 votes for his opponent, J. S. Mannasse.

Bryant Howard, D. Cave, E. W. Hendrick, G. N. Hitchcock, and George W. Marston were elected library trustees.

John H. Snyder was elected president of the new board of city trustees. S. Statler replaced H. T. Christian as city clerk. Bryant Howard was again chosen city treasurer. M. Statler resigned his clerkship on January 1, 1885, and H. T. Christian was again chosen to the position.

The conservation of the Torrey pines was first officially considered by the board of trustees on July 11, 1885, when an ordinance was adopted providing for a standing reward of \$100.00 for the arrest and conviction of anyone found guilty of cutting, injuring or destroying any of these trees situated on city lands.

By Ordinance No. 112, adopted on October 9, 1885, the president of the board was authorized to enter into a contract with the Jenny Electric Company of Indianapolis, Indiana, for lighting the city by electricity for the first time. The records show that "the lights are to be lighted and run on what is known as the Moon Schedule, taking into consideration the 'dark of the moon,' the full moon and the hours of the moon rising and setting." Masts or towers were to be erected at designated street intersections.

A lease was authorized on December 7, 1885, under which C. C. Watson was to prospect for coal on certain pueblo lands north of the San Diego river.

To ascertain how much the city had grown since the federal census of 1880 the board on February 25, 1886, authorized the city clerk to invite bids for taking a census of the inhabitants of the city. Five persons filed bids, ranging from 1½ cents to 4½ cents per capita. That of A. H. Sweet at 2 cents

was accepted by the board on March 17 and he was given until April 5, at noon, to complete the enumeration. His report showed 6,203 inhabitants.

A petition of 165 electors was presented to the board on April 5, asking that it submit at the next election the question of reorganizing the city as of the fifth class. The petition was granted and on May 13 the voters, by a vote of 385 to 53, approved the proposition and the clerk was authorized to forward a transcript of the proceedings to the secretary of state.

At this election the following were elected, by wards, as trustees: William J. Lyons, W. W. Stewart, W. A. Begole, Charles S. Hamilton and G. Frank Judson. H. T. Christian and J. P. Jones were elected assessor and tax collector, respectively. The board of library trustees was re-elected, without change.

The city trustees selected W. W. Stewart as president and H. T. Christian was retained as city clerk.

Under the new set-up as a fifth class city a new election was held on June 3 resulting in the return of Messrs. Hamilton, Judson and Stewart, and the selection of two new trustees—J. G. Sloane and William H. Carlson. This board was chosen at large, instead of by wards.

A board of education was elected for the first time, composed of George N. Hitchcock, Philip Morse, Charles Hubbell, J. W. Thompson and George M. Dannals.

Other elected officials were: H. T. Christian, assessor; Joseph Coyne, marshal; S. Statler, treasurer; Charles F. Monroe, recorder.

When the new board of city trustees met for organization on June 7 Charles H. Hamilton was chosen as president and H. T. Christian as city clerk of the board. John D. Works was elected city attorney.

An important step taken by this board was the employment of Gen. George E. Waring, Jr., to prepare plans for a sewer system for the city for a fee of \$1,000.00.

Once more a change was made in the meeting place of the board of trustees, when, on June 30, it was voted to enter into a lease for one year of one room on the first floor and one on the second floor of the Sun Building on the Plaza at 3rd Street, for \$40.00 per month.

John D. Works having resigned as city attorney on September 27, the board on October 6 appointed Harry L. Titus to the position.

At the meeting of November 15, 1886, an application was filed by the San Diego Telephone and Messenger Company for a franchise for the "transmission of messages, sound and signals and the production of power, heat and light by the aid of electricity." Grant of such franchise was made by Ordinance No. 32, adopted on November 29, to run for thirty years.

Ordinance No. 35, adopted December 9, 1886, created the San Diego Fire Department, to be headed by a chief engineer and to take in all regularly organized fire companies, not to exceed five in the city. The chief engineer was to be named by the board of trustees, while the assistants were to be selected by vote of the members of the fire companies. The department was to be governed by a board of delegates, three to be elected from the membership of each of the various companies. Samuel McDowell was appointed by the board of city trustees as the first chief engineer under this new plan.

A movement to have the city placed in the fourth class was inaugurated early in January, 1887, when a committee of five citizens was named to examine proposed charters for cities of a population approximately the same as that of San Diego. On this committee were: Watson Parrish, H. L. Titus, A. Schneider, Bryant Howard, and W. J. Hunsaker. This committee submitted its report in due time, and the city clerk was instructed to forward copies of the report to the representatives of San Diego County in the legislature.

The board, by Ordinance No. 46, adopted January 10, 1887, divided the city into five voting precincts. The complete machinery for the conduct of elections, now covered by state law, was set forth in Ordinance No. 49.

At a special election on February 26, 1887, a bond issue of \$400,000.00 was authorized for the purpose of considering a sewer system, a total of 1168 votes being cast, of which 1083 were favorable to the issue.

In order to ascertain if the city had enough inhabitants to qualify it for the fourth classification, the board, by Ordinance No. 57, authorized the city clerk and the necessary assistants and deputies to make an enumeration of the people residing within the city, and for this job the clerk was to receive two cents per name. Upon the completion of this census the clerk reported a total of 11,307 inhabitants in the city.

Based upon this census the trustees proceeded to call a special election on April 11 to choose a new corps of officers, and to decide whether or not the city should go under the new classification. The following were elected: Trustees: M. D. Hamilton, A. H. Julian, J. A. McRae, J. H. Woolman and C. C. Valle; board of education: George N. Hitchcock, George M. Dannals, Philip Morse, Charles Hubbell and J. W. Thompson; assessor, J. M. Asher; marshal, Joseph Coyne; treasurer, S. Statler; recorder, C. F. Monroe.

The vote on reorganization of the municipality stood 1212 in favor and 218 against the proposition. The clerk was instructed to notify the secretary of state of the outcome of the election on this question.

The new board organized by electing M. D. Hamilton president and James A. Thomas city clerk. D. C. Collier was appointed city attorney.

Bernard King was the successful applicant for street superintendent. Dr. D. B. Northrup was named as health officer. Samuel McDowell remained as chief of the fire department under the new set-up. O. N. Sanford succeeded M. G. Wheeler as city engineer.

J. M. Asher resigned as city assessor within a month and I. L. Palmer was appointed in this place.

Under the new classification the board of library trustees became appointive, and the board named D. Cave, G. N. Hitchcock, E. T. Blackmer, E. W. Hendrick and John Ginty.

The place of meeting of the city trustees was once more changed on June 23, 1887, when it was voted, by Ordinance No. 89, to move "to the city's fire engine building on Third Street, between D and E Streets." The recorder's office, however, remained in the Sun Building.

A return to the ward system of dividing the city was made in Ordinance 122, adopted September 8, 1887, with three wards of two precincts each.

The first bond election having to do with the erection of frame school buildings in various parts of the city was called by Ordinance No. 131, to be held October 24, 1887. The amount involved was \$80,000.00. As is the case in many special elections, the bond proposal failed to call out many voters, but 213 going to the polls on the day set. Of these 202 voted for the bonds and 11 against.

A general city election was held November 8, 1887, placing in office the following: mayor, W. J. Hunsaker; Councilmen: first ward, W. H. Pringle, George W. Marston, Simon Levi and J. A. McRae; second ward, C. C. Valle, A. M. Thornburg, G. W. Waters and Frank Clark; third ward, F. H. Burkhardt, G. C. Arnold, M. D. Hamilton and H. P. Whitney; city attorney, Harry L. Titus; chief of police, Joseph Coyne; police judge, Charles F. Monroe; assessor, L. D. Burbeck; collector and street commissioner, I. L. Palmer; superintendent of public schools, George N. Hitchcock; school trustees: first ward, Richard V. Dodge and N. McKie; second ward, Eugene Frandzen and Florence A. Thomas; third ward, John G. Capron and W. H. Stenger.

At the first meeting in 1888 the new, enlarged council chose M. D. Hamilton as president and appointed James A. Thomas as city clerk. In selecting a city treasurer there were several ballots without a majority for any one of the three nominees. On a final ballot the vote stood six for S. Statler and six for Bryant Howard, and the mayor then used his prerogative of voting to break the tie and voted for Howard, who was then declared elected.

The election of Mrs. Florence A. Thomas as school trustee was the first instance of a woman being elected to public office in the city. She held the position until July 17, 1888, when M. W. Jenks was appointed to fill the place.

The old board of library trustees was returned to office, under the new charter set-up.

An ordinance was adopted, No. 176, fixing weekly meetings of the council on Tuesday evening "at the City Hall, 934 Third Street."

O. N. Sanford was appointed city engineer and G. C. Lovdal harbor master. Samuel A. McDonald was continued as chief of the fire department.

On March 20, 1888, the city clerk was instructed "to purchase for the use of the Chain Gang one dozen 'balls and chains' and one dozen 'shackles.'" Eight hours work per day was fixed for members of the chain gang.

Albert Hertz succeeded S. McDowell as chief of the fire department on March 27. He resigned within a few months and Frank M. Avery succeeded him.

Councilman Clark was removed from office by the council on July 10, 1888, on the grounds that he had "neglected to discharge the duties of his office for the period of three consecutive months." To fill the vacancy the council elected John F. Sinks.

The first step toward the occupancy of the present city hall building at Fifth Avenue and G Street was taken on October 2, 1888, when the trustees of the public library asked the council for permission to make a new lease with the Consolidated National Bank "for one whole floor of their new building." The request was referred to the library committee with power to act, and the action being favorable, the library became the first city department to be so located.

Mayor Hunsaker resigned November 13, 1888, owing to the demands upon his time made by his professional engagements as a lawyer. M. D. Hamilton, president of the council, then became mayor pro tem and acted as mayor until May, 1889.

A movement seeking a special election, under the amendment of 1887, to choose a board of freeholders to frame a charter was started on November 20, 1888, when Col. Douglas Gunn presented to the council a petition signed by numerous citizens. The matter seemed so urgent that the council met the following day and adopted an ordinance calling the election for December 5. The following fifteen men were chosen as freeholders: Douglas Gunn, Edwin Parker, Philip Morse, N. H. Conklin, M. A. Luce, R. M. Powers, E. W. Morse, George M. Dannals, D. Cave, H. T. Christian, George B. Hensley, G. W. Jorres, Charles Hubbell, C. M. Fenn, and W. A. Begole.

This board began its work promptly and carried it forward so rapidly that an election to vote upon the ratification of the charter was held on March 2, 1889, the vote standing 1501 in favor and 830 against. The charter was

forwarded immediately to the Legislature where it was approved by the Senate on March 6 and by the Assembly on March 9. Thus San Diego became a freeholder charter city.

The charter of 1889 divided the city into nine wards, and the first general election, held on April 2, placed the following in office under the bi-cameral system:

Mayor, Douglas Gunn; treasurer, J. M. Dodge; police judge, M. L. Rawson.

Aldermen (elected at large): H. F. Norcross, H. T. Christian, T. C. Fisher, Simon Levi, H. A. Perry, A. G. Gassen, W. A. Begole, C. F. Francisco, and D. Cave.

Delegates (two from each ward): 1st ward, W. J. Lyons and Melvin Stone; 2nd ward, J. H. Marshall and C. W. Pauly; 3rd ward, A. H. Julian and G. G. Bradt; 4th ward, J. P. Davies and W. R. Day, 5th ward, G. M. Wetherbee and P. H. Rediger; 6th ward, D. H. Hewitt and C. E. Heath; 7th ward, A. B. Seybolt and F. C. Thompson; 8th ward, R. G. Hulbert and G. P. Low; 9th ward, C. F. Kamman and William Cooper.

Board of Education (two from each ward): 1st ward, C. M. Stetson and S. B. Allen; 2nd ward, B. F. McDaniel and N. McKie; 3rd ward, W. H. Holcomb and W. W. Stewart; 4th ward, John G. Capron and Eugene Frandzen; 5th ward, A. F. Dill and J. R. Porter; 6th ward, R. M. Jeffrey and M. W. Jenks; 7th ward, J. H. Ferry and J. W. Westcott; 8th ward, Joseph A. Flint and V. D. Rood; 9th ward, O. C. Miller and H. D. Cassidy.

Councilman Waters died in April, 1889, and George M. Wetherbee was elected by the council to fill the vacancy. He occupied the office only one month, however, when the new bi-cameral council began functioning and he took his place as a member of the board of delegates.

The minute records show the board of aldermen to have organized on May 6, 1889, by electing H. T. Christian as president. The delegates chose as their president G. G. Bradt. The aldermen and delegates met in joint session immediately after organizing and elected W. M. Gassaway as city clerk and James P. Goodwin as city attorney.

In order to keep the minutes of both boards the city clerk looked after the aldermen and had a deputy, J. F. Patton, act in a similar capacity at the meetings of the delegates. Every ordinance had to be adopted by both boards before going to the Mayor for his consideration.

The Freeholders' Charter of 1889 set up the whole machinery of government for the city, but it failed to meet all conditions as the years went by, and before another charter, framed by a board of freeholders, was adopted in 1931

there were no less than fourteen elections at which the charter of 1889 was amended.

Many of these amendments served merely to clarify some points in the original charter, while some were of more importance, such as the amendment of 1905, which abolished the bi-cameral legislative body, or council with two houses, the aldermen and the delegates, and provided for but one legislative body to be designated as the common council.

The 1905 amendment also made provision for the recall of any elected official of the city, this being the first appearance of the recall power in this city's charter.

In 1909 another amendment was made which was a decided change from previous provisions in that it reduced the number of members of the common council from nine to five, and assigned to each member the supervision of certain departments of the city government. These departments were designated as follows: 1—Department of finance, ways and means; 2—Department of police, health and morals; 3—Department of public streets and buildings; 4—Department of fire and sewers; 5—Department of water. This was San Diego's first venture in the commission form of government, but it did not last many years.

By the amendments of 1911 a procedure was set up for the granting of franchises under a scheme whereby the grantee was to pay to the city 2% of the gross receipts derived from the use of the franchise. The pay of the members of the board of education was set at \$600.00 a year each in the 1911 amendments.

In 1913 amendments were approved which established special tax rates for the public library and the public playgrounds, and a board of five playground commissioners was authorized.

Amendments adopted in 1915 did away with the commission form of government and created the position of manager of operation, whose duties combined those which had been exercised by the council members since 1909.

The recall provisions of the charter were also amended at the same time, and a civil service system was set up. A special tax levy for park maintenance was made mandatory.

In 1919 amendments took from the manager of operation all jurisdiction over the harbor and created a harbor commission. Provision was made for a salary of \$2000.00 for each member of the common council. The water development department was created at that time, providing for a water commission of three members, to have exclusive charge and supervision of the conservation and impounding of water for the city.

The term of city treasurer was extended from two to four years by an amendment adopted by the people in 1920 and approved by the legislature in 1921, and the procedure for municipal elections was clarified. Changes were made in the procedure for street improvements to comply with recent state enactments. The preparation of a budget ordinance to be adopted in December, rather than in May, was another amendment.

Several minor changes to charter sections were enacted in amendments voted upon in April, 1921, and immediately given Legislative approval.

Amendments ratified at Sacramento in 1923 included those which brought into existence the retirement systems for the police and fire departments; terminated the board of water commissioners and placed the duties and powers of that board in the operating department. Power was given the council to grant street railway franchises for terms not exceeding fifty years. Special levies were authorized for the zoo and for street tree planting and maintenance.

In 1925 an amendment was ratified which created a retirement system for all city employees not covered by the fire and police provisions of 1923. Authorization was given the city to do street improvement work and assess the costs to abutting property in cases where no bids were filed by contractors. Fixed salaries were established for members of the fire and police departments.

Amendments approved by the voters in 1927, among other things, limited to ten years the terms of leases to real estate owned by the city, south of the San Diego river; extended the period between primary and general elections to three weeks; set aside a portion of Balboa Park as a Zoological Garden; and fixed rates which the city might pay for official advertising.

In 1929 charter changes included one which extended the bond limit for water development to 25% of the assessed valuation within the city, in addition to bonds issued for other municipal purposes; extended time within which pueblo lands could not be sold from 1930 to 1940; removed restrictions as to rates for official advertising; created a 10-cent tax levy for harbor development; provided safeguards for employees under civil service against removal without right of hearing; fixed special tax rate of 10 to 16 cents for park maintenance and improvement, with proviso that 2 cents of this rate should be for the zoo.

The last amendment to the 1889 charter was approved by the voters March 24, 1931, added a new section which gave to the common council power to enter into a contract with the United States government for the perpetual furnishing of electrical energy, with the idea of the city getting some portion of the energy generated at the Boulder Dam, then in its early stages of construction.

A new charter had been drafted by a board of freeholders in 1929 but failed of adoption by the voters. However, with the fact in mind that the charter of 1889 was continually being amended, with a record of a total of 125 changes in sections by repeal, amendment or addition during its existence, another board of freeholders was elected in 1930 and a new charter was drafted and filed for submission to the voters early in 1931. This latest charter was accepted by the people at the general election on April 7, and was ratified by the legislature eight days later.

This created the office of city manager, as one of its most important provisions, placing under his jurisdiction all divisions of the municipal administration, with the exception of the board of education, the harbor department and the civil service commission, the legal department, the city auditor and comptroller's department, and the city clerk's department.

Under this charter the fiscal year begins on July 1. A city police court was created. An article regulating labor on public works of the city and providing for the "prevailing rate of pay" and placing an 8-hour limit per day for such labor was embodied in the charter. The salary of the mayor was fixed at \$5,000.00 and that of each member of the council at \$3,000.00. The latter salary, however, was later reduced by a vote of the people on an initiative ordinance which limited the pay of each councilman to \$600.00 a year. The city was divided into six councilmanic districts, with one member from each district, the nominations at the primary election to be by districts but the election to be at large at the general election. The only elective officers as fixed by this charter are the mayor, the councilmen, the city attorney and the members of the board of education, and the City Police Judge.

The first amendment to the charter of 1931 came as a result of a special municipal election held on December 19, 1933, having to do with the office of city manager, and requiring a vote of at least five members of the city council to remove this official. This amendment was ratified by the legislature on January 14, 1935.

A second amendment, approved by the voters on November 6, 1934, directed a special levy of two cents on the hundred dollars of valuation for the maintenance in Balboa Park of zoological exhibits. The legislature ratified this also on January 14, 1935.

The third, and latest, amendment, approved by the people on April 23, 1935, and ratified by the legislature on May 14, increased the retention of pay of members of the fire and police departments from 2% to 4% for the retirement and pension funds of those two branches of the city administration, and also clarified the section having to do with retirement for service, and

required that no retirements shall be granted to persons under fifty years of age and before there had been twenty-five years of service in the aggregate.

Mayors

1850-	Joshua H. Bean	1907-09	John F. Forward, Sr.
1851-	David B. Kurtz	1909-11	Grant Conard
1852-	George P. Tebbetts	1911-13	James E. Wadham
1852-87	Board of Trustees	1913-15	Charles F. O'Neill
1888-89	W. J. Hunsaker	1915-17	Edwin M. Capps
1889-91	Douglas Gunn	1917-21	Louis J. Wilde
1891-93	M. Sherman	1921-27	John L. Bacon
1893-97	W. H. Carlson	1927-31	Harry C. Clark
1897-99	David C. Reed	1931-32	Walter W. Austin
1899-01	Edwin M. Capps	1932-34	John F. Forward, Jr.
1901-05	Frank P. Frary	1934-35	Rutherford B. Irones
1905-07	John L. Sehon	1935-	P. J. Benbough

The chairman of the Board of Trustees carried the title of President.

PERSONNEL OF CITY'S LEGISLATIVE BODIES

1850—Councilmen

Philip Crosthwaite	John Dillon
Charles Haraszthy	J. Jordan (election contested and lost)
George F. Hooper	George P. Tebbetts
Charles R. Johnson (resigned)	Enos A. Wall (resigned)
William Leamy	Thomas Wrightington (resigned)
Charles P. Noell (resigned)	1852—Councilmen
Atkins S. Wright	Charles Fletcher
1851—Councilmen	Charles R. Johnson
John Judson Ames	William Leamy
A. Blackburn (resigned)	R. E. Raimond
John Brown	George P. Tebbetts
	W. P. Toler

From 1852 to 1888 the city was under a board of trustees system and the change in personnel is shown in detailed story of city's municipal changes.

1888-1889—Councilmen

G. C. Arnold	W. H. Pringle
F. H. Burkhart	John F. Sinks
Frank Clark	A. M. Thornburg
M. D. Hamilton	C. C. Valle
Simon Levi	George M. Waters

George W. Marston
J. A. McRae

George M. Wetherbee (vice Waters,
deceased)
H. P. Whitney

1889-1890—Aldermen
(Bi-cameral Council)

W. A. Begole
D. Cave
H. T. Christian
John C. Fisher
C. F. Francisco

A. G. Gassen
Simon Levi
H. F. Norcross
H. A. Perry

Delegates

J. F. Atherton
G. G. Bradt
Isaac G. Burnett
C. F. Camman
C. E. Heath
D. H. Hewitt
W. Hollington
R. G. Hulbert
A. H. Julian
W. Llewelyn
George P. Low
W. J. Lyons
J. H. Marshall
A. C. Morgan

William Cooper
J. P. Davies
W. R. Day
E. W. Elliott
Charles W. Pauly
Paul H. Rediger
A. B. Seybolt
Melvin Stone
Simon W. Switzer
F. C. Thompson
John Thurman
Harr Wagner (resigned)
George M. Wetherbee
J. M. Williamson

1891-1892—Aldermen

W. A. Begole
C. C. Brandt
H. T. Christian
A. G. Gassen
W. E. Howard
Simon Levi
Arthur G. Nason
A. E. Nutt
H. A. Perry (resigned)
David C. Reed (vice Francisco,
resigned)
S. J. Sill
H. P. Whitney

Stephen Doud
J. F. Escher
Thomas W. Graham
W. R. Gunnis
W. E. Hadley
B. F. Mertzmann
A. N. Miller
F. D. Murtha
Arthur G. Nason
A. E. Nutt
Charles W. Pauly
Jacob Price
W. J. Prout

Fred Baker
Amos Beard
J. W. Burns
M. M. Conn
George H. Crippen

Delegates

Henry Sweeney
Edmund C. Thorpe
George B. Watson
Will W. Wetzell
H. H. Williams
Paul A. Rediger

1893-1894—Aldermen

Joseph S. Bachman
A. Blochman
Simon Levi

W. J. Prout
George H. Spears

Delegates

Fred Baker
Sewall F. Barker
H. L. Barrows
Horace Bradt
C. H. Brown
Frank P. Bruner
W. J. Davis
H. E. Doolittle
Thomas H. Dunkin
C. C. Hakes

George M. Havice
Danville F. Jones
William H. Kroah
S. H. Olmstead
Charles W. Pauly
Fred H. Robinson
George H. Rotnor
Henry Sweeney
W. G. Tirrell

1895-1896—Aldermen

Amos Beard
Alonzo E. Dodson
A. E. Nutt

W. J. Prout
Henry Sweeney
George B. Watson

Delegates

J. A. Altamarino, Jr.
Fred Baker
Sewall F. Barker
Edwin S. Burgert
John Campbell
George B. Chapman
Thomas H. Dunkin
C. C. Hakes
Francis A. James

Danville F. Jones
S. H. Olmstead
N. V. Paddock (died in office)
Charles W. Pauly
J. L. Paulson
Minard J. Perrin
John F. Warner
Herman Welisch

1897-1898—Aldermen

L. A. Blochman
Samuel W. Hackett
Samuel G. Ingle
Simon Levi

Arthur G. Nason
A. E. Nutt
Charles W. Pauly

Delegates

Hi W. Alden
 F. W. Barnes
 James H. Cassidy (resigned)
 William H. Doddridge
 C. F. Francisco
 Frank P. Frary
 W. L. Frevert
 C. C. Hakes
 Francis A. James
 Amasa P. Johnson, Jr.
 John W. Lambert

Harry M. Landis
 Addison Morgan
 Walter J. Morgan
 S. H. Olmsted
 Minard J. Perrin
 George F. Ruble
 A. A. Thorp
 George A. L. Urban
 J. M. Williamson
 Ed H. Wright

1899-1900—Aldermen

Carl I. Ferris
 Samuel W. Hackett
 C. C. Hakes
 Danville F. Jones

Harry M. Landis
 J. P. M. Rainbow
 Homer G. Taber
 George B. Watson

Delegates

F. W. Barnes
 Ezra G. Bradbury
 George B. Chapman
 James S. Clark
 Claude C. Craig
 E. E. Denton
 W. H. C. Ecker
 Frank P. Frary
 W. L. Frevert
 H. C. Gordon
 Ed Gutwillig

A. H. Kayser
 John W. Lambert
 George McNeill
 Otto Sippell
 A. A. Thorp
 George A. L. Urban
 W. W. Whitson (resigned)
 J. M. Williamson
 Henry Woolman
 Ed H. Wright

1901-1902—Aldermen

George M. Hawley
 Fred C. Hyers
 Samuel G. Ingle
 S. T. Johnson
 Harry M. Landis

W. F. Ludington
 K. L. Parratt
 Minard J. Perrin
 J. P. M. Rainbow
 W. W. Whitson

Delegates

Robert J. Blair
 Ezra G. Bradbury
 Frank H. Briggs
 Barker Burnell

M. W. Jenks
 A. H. Kayser
 D. L. Kretsinger
 John W. Lambert

Henry Busch
George Butler
George B. Chapman
James S. Clark
W. H. C. Ecker
R. P. Guinan

W. W. Lewis
George McNeill
F. E. Patterson
Edmund C. Thorpe
Henry Woolman

1903-1904—Aldermen

George H. Crippen
S. T. Johnson
Danville F. Jones
Charles Kelly

Minard J. Perrin
J. P. M. Rainbow (resigned)
J. M. Steade
Henry Woolman

Delegates

Frank H. Briggs
Frank C. Butler
John T. Butler
George B. Chapman
James S. Clark
Lawrence A. Creelman
W. H. C. Ecker
Charles L. Good
R. P. Guinan
John W. Lambert
W. W. Lewis
George McNeill

R. P. Niles
E. W. Peterson
John J. Richert (resigned)
Fred T. Scripps
Hewlett Scudder
John L. Sehon
James Simpson
Don M. Stewart
J. K. Weed
J. M. Williamson
Ed H. Wright

1905-1906—Common Council

(Named by Governor George C. Pardee,
pending election under new charter amendment):

W. B. Hage
Amasa P. Johnson, Jr.
S. T. Johnson
Danville F. Jones
John W. Lambert

N. D. Nichols
John B. Osborn
Minard J. Perrin
Henry Woolman

Following were elected at April general election:

Lucian A. Blochman
Lawrence A. Creelman
Ferdinand J. Goldkamp
Amasa P. Johnson, Jr.
Charles Kelly
George McNeill
John B. Osborn

Jay N. Reynolds
Edmund C. Thorpe
W. F. Ludington (vice Osborn,
resigned)
H. S. Morrow (vice Ludington,
resigned)

1907-1908

Lawrence A. Creelman	Will H. Palmer
James E. Connell (resigned)	Percival E. Woods
Alonzo E. Dodson	Nils Malmberg (vice Kelly)
Ferdinand J. Goldkamp	James H. Haskins (vice Dodson)
Charles Kelly	D. B. Northrup
George F. Mahler	Carl Winter
George McNeill	Henry Woolman

COMMISSION FORM OF GOVERNMENT (1909-1915)

1909—Alonzo E. Dodson (Fire and Sewers)
 Frank A. Salmons (Streets and Public Buildings)
 John L. Sehon (Police, Health and Morals)
 Percival E. Woods (Finance, Ways and Means)
 Claude Woolman (Water)

1910—Herbert R. Fay (vice Woolman, resigned) (Water)

1911—(elected) Herbert R. Fay (Water)
 Daniel K. Adams (vice Salmons) (Public Streets and Buildings)

1913—(elected) Percy J. Benbough (Fire and Sewers)
 Henry N. Manney (Police, Health and Morals)
 Otto M. Schmidt (Finance, Ways and Means)

1915—(elected)

Herbert R. Fay	Walter P. Moore
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1917—(appointed)

C. W. Fox (vice Manney, deceased)

1917—(elected)

John L. Bacon	Howard B. Bard	Virgilio Bruschi
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1918—(appointed)

James H. Dougherty (vice Bard)	Fred A. Heilbron (short term)
Thomas J. Fisher (vice Bacon)	John A. Held (full term)
William H. Palmer (vice Fay)	Beecher Sterne (full term)
	Harry K. Weitzel (short term)

1919—(appointed)

Don M. Stewart (vice Sterne, deceased)

1921—(elected)

Virgilio Bruschi (full term)	Don M. Stewart (short term)
Fred A. Heilbron (full term)	Harry K. Weitzel (full term)

1923—(elected)
 John A. Held Don M. Stewart

1925—(elected)
 Virgilio Bruschi Harry K. Weitzel Louis C. Maire

1926—(appointed) : Fred A. Heilbron (vice Weitzel)

1927—(elected)
 Edward H. Dowell Stewart P. McMullen Frank W. Seifert

1929—(elected)
 James V. Alexander Louis C. Maire Ira S. Ireys

1931—(elected)
 Joseph J. Russo Alfred Stahel, Jr.

1931—(appointed) : Albert W. Bennett (vice McMullen)
 Albert W. Bennett (vice McMullen)

1932—(elected)
 Charles E. Anderson LeRoy E. Goodbody
 Albert W. Bennett (drew short term) Dan Rossi
 John R. Blakiston (drew short term) Joseph J. Russo (drew short term)

1933—(elected)
 Albert W. Bennett Harry Warburton Wayne A. Hood

1934—(appointed)
 Will H. Cameron (vice Goodbody) Alva S. Davis (vice Hood)
 Richard I. Scollin (vice Anderson)

1935—(elected)
 John S. Siebert Walter C. Wurfel (short term)
 Raymond M. Wansley Bruce R. Stannard

City Clerks and Secretaries of Boards of Trustees:

1850 John Conger	1859-1860 James Donohue
1850 W. E. Rust	1860 D. A. Hollister
1851 A. J. Matsell	1862 F. L. Brill
1851 Frederick J. Painter	1865-1867 George A. Pendleton
1852 George P. Tebbetts	1867-1868 Thomas H. Bush
1853 William C. Ferrell	1868-1869 Joshua Sloane
1853-1856 Ephraim W. Morse	1869-1870 Matthew Sherman
1856 Thomas R. Darnell	1870-1872 A. B. McKean
1857 David B. Hoffman	1872-1874 E. G. Haight
1858 Joseph R. Gitchell	1874-1876 M. Keating

1876-1877	S. Statler	1889-1890	W. M. Gassaway
1877-1879	Mark P. Shaffer	1890-1891	J. F. Patton
1879-1880	H. T. Christian	1891-1893	K. J. Ware
1880-1882	Thomas Whaley	1893-1904	George D. Goldman
1882-1884	H. T. Christian	1904-1905	Harry W. Vincent
1884	S. Statler	1905-1910	John T. Butler
1884-1887	H. T. Christian	1911-	Allen H. Wright
1887-1889	James A. Thomas		



SAN DIEGO COUNTY HORTICULTURE

By KATE O. SESSIONS

Pioneer San Diego Horticulturist

San Diego county is the most individual county of the state as regards topography and climate, as it extends nearly across the state, the ocean forming its western, the desert its eastern, and Mexico its southern boundary.

The frostless areas are along the coast and with increasing altitudes eastward, climatic conditions vary until the mountains, rising 6,000 feet, have winter snows and summer rains. The desert sections are dry but the soil is good, and with irrigation can be made to produce the cotton of the South, the dates of Arabia, winter lettuce, and early melons for the United States.

The first nursery in San Diego was established in the early 80's by Mr. J. M. Asher at 5th avenue and B street, and the bougainvillea and poinsettia established there were nature's self-registering thermometers that recorded the unique climatic conditions for the young city. Mr. Asher moved to El Cajon valley and in 1885 there was no nursery here. The possibilities of growing tropical plants, such as I had seen in Honolulu a few years before, seemed a very inviting business, and I decided to locate at Coronado. The best San Francisco nurseries grew rare and tropical plants in large conservatories with which I was familiar and from them I obtained specimens for trial.

In 1887-1888 the court of the Hotel del Coronado was planted with specimens from the famous Woodward Garden's Conservatory at San Francisco, and its bougainvilleas, cocos, kentia forsteriana and sabal palms, the stephenotis, and bird of paradise were the first specimens planted here. The cocos was called a "royal palm," but samples of its foliage sent to Kew Gardens, England, were identified as the cocos plumosa palm. Mr. James Bailey

1876-1877	S. Statler	1889-1890	W. M. Gassaway
1877-1879	Mark P. Shaffer	1890-1891	J. F. Patton
1879-1880	H. T. Christian	1891-1893	K. J. Ware
1880-1882	Thomas Whaley	1893-1904	George D. Goldman
1882-1884	H. T. Christian	1904-1905	Harry W. Vincent
1884	S. Statler	1905-1910	John T. Butler
1884-1887	H. T. Christian	1911-	Allen H. Wright
1887-1889	James A. Thomas		



SAN DIEGO COUNTY HORTICULTURE

By KATE O. SESSIONS

Pioneer San Diego Horticulturist

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San Diego, February 28th, 1852

To the Honorable President and Members of the Common Council

The Finance Committee of the Common Council of the year 1852 being about to retire with all other Offices of the City from their Office, would respectfully represent that they used every endeavor upon their part to ascertain the financial condition of the City, but owing to the unsettled accounts of the treasurer of 1850 and the manner in which the accounts of the City have been kept, that they are at an utter loss to give any report upon the assets or debts of the City.

Respectfully,

William Leamy

Financial Committee of the Common Council of 1852

The Finance Committee of the Common Council of the Year 1852. Being about to retire with all other officers of the City - from their office, would respectfully represent that they used every endeavor upon their part to ascertain the financial condition of the City. But owing to the unsettled accounts of the treasurer of 1850 and the manner in which the accounts of the City have been kept, that they are at an utter loss to give any report upon the assets or debts of the City.

Respectfully,

To the
Hon President & Members
Com Council

William Leamy
Chas C Johnson
Finance Committee
of the Com Council of 1852

San Diego Feb 28th 1852

Exhibit 2



FOR IMMEDIATE RELEASE

May 2, 2007

FACT SHEET

SANDERS INCREASES STREET REPAIR FUNDING BY 449% SINCE TAKING OFFICE

***NEW DATA SHOWS 63% OF CITY STREETS IN FAIR, POOR CONDITION
MAYOR'S FUNDING WILL CHANGE STREETS TO "ACCEPTABLE" CONDITION***

As part of his commitment to address the city's historically ignored infrastructure, Mayor Jerry Sanders has set aside \$25.5 million in his FY08 budget proposal to fund 134.4 miles of street repairs. This represents a 96% increase in funding over FY06 and a 34% increase in the mileage covered by the Mayor's FY07 budget and more than 448.5% greater than mileage addressed in the year before the Mayor took office.

Project Type	FY 06 Budget (Miles)	FY 07 Budget (Miles)	FY 08 Proposed (Miles)
Street Overlay (Asphalt)	\$1,421,895 (4.5 Miles)	\$8,208,222 (21 Miles)	\$18,500,000 (41.1 Miles)
Slurry Seal	\$770,000 (20 Miles)	\$4,790,000 (79.5 Miles)	\$7,000,000 (93.3 Miles)
TOTAL	\$2,191,895 (24.5 Miles)	\$12,998,222 (100.5 Miles)	\$25,500,000 (134.4 Miles)

As part of his Five Year Budget Plan, the Mayor will dedicate approximately \$373 million to improving the condition of the city's streets and storm drains. Funding our deferred maintenance and capital improvement needs is one of the Mayor's top priorities. In addition to the money set aside for streets and storm drains, the Mayor's plan includes an additional \$205 million for the repair of city facilities. The Mayor plans to dedicate a total of \$578 million to deferred maintenance and capital improvements over the next five years.

INFORMATION FROM OUTSIDE CONSULTANTS BOOSTS MAYOR'S FUNDING PLAN

At the time Mayor Sanders took office there was no up-to-date information available regarding the condition of City streets. The last condition assessment had been conducted in 2003 and the City had drastically reduced funding for street repair projects since that time. Last year, the Mayor commissioned Stantec, Inc. to assess the 2,800 miles of City streets. While not yet final, the company has made certain findings from its assessment work, as follows:

- Sixty-three percent of the City's streets are in fair or poor conditions. Since the last report conducted in 2003, an additional 3% of City streets have been downgraded from acceptable to fair.
- While industry standards state that 75% of City streets should be in acceptable condition, only 37%, or 1,036 miles of San Diego's streets, are in that condition.

Road Conditions	2001	2003	2007	% Change Between 2003 – 2007
	% (miles)	% (miles)	% (miles)	
Acceptable (75% benchmark)	49 (1372)	40 (1120)	37 (1036)	-3%
Fair (20%)	42 (1176)	42 (1176)	45 (1260)	+3%
Poor (5%)	9 (252)	18 (504)	18 (504)	No change

- Using the Stantec data, the City has determined that it would cost \$279.8 million to meet industry accepted standards for its streets network. Bringing all city streets to the acceptable level at the same time is estimated to cost an additional \$104.8 million (\$384.6 million total).

CITY WILL USE OVERALL CONDITION INDEX TO ADDRESS DEFERRED MAINTENANCE

The Stantec data provides an Overall Condition Index (OCI) for the City's streets. The OCI is based on a scoring system applied to each segment of City streets and gives its top score of 100 to brand new streets just coming into service. A score of zero in the OCI would be assigned to unpaved streets.

Streets are considered to be in acceptable condition if they score between 70 and 100 points in the OCI model. Streets in fair condition fall between 40 and 69 points in the OCI and poor streets receive a score of 39 or below.

EXAMPLES OF CITY STREET SEGMENTS IN ACCEPTABLE, FAIR AND POOR CONDITIONS:

- Acceptable:**
- Division Street. From Bryanview Circle to Paradise Road
 - Sorrento Valley Boulevard From Seapoint Way to Jasmin Crest Lane
 - Park Boulevard. From Zoo Place to Morley Field.
- Fair:**
- Lamont Street From Diamond Street to Missouri Street
 - 38th Street from Monroe to Madison Avenue
 - Executive Drive from Town Center Drive. to Judicial Drive
- Poor:**
- College Avenue from Newsome Drive to Jeff Street
 - Engineer Road from Cardin Street to Ruffner Road
 - Highland Ranch From Carmel Mountain Road to Carmel Ridge Road

MAYOR WILL USE DATA TO DETERMINE PRIORITIZATION FOR REPAIR WORK

The OCI forms the basis for determining which City streets will be scheduled for repairs. The Mayor and his staff will use the OCI and a range of other factors in determining which specific streets will receive repair work in the coming year. The factors to be considered in determining priorities for street repairs include:

- Condition of street (OCI data)
- Type of street (residential, commercial, etc.)
- Average daily travel
- Prior maintenance history
- Poor drainage history
- Location to ensure equity across city

The Mayor and his staff also pay close attention to schedules for other infrastructure work to be conducted on or near a street that may be in need of repair. Staff looks at future work to be done for water/wastewater improvements, local utilities like SDG&E, Cox/TimeWarner and AT&T and at development efforts that might affect road conditions in the near future.

Exhibit 3

**THIS EXHIBIT INTENTIONALLY
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Exhibit 4



City of San Diego

Five-Year Financial Outlook

Fiscal Years 2008 – 2012



November 29, 2006

**Presentation to the City Council Through
The Budget and Finance Committee**

City of San Diego General Fund Five-Year Financial Outlook 2008-2012

making the total projected ending balance for fiscal year 2007 \$61.7 million. The Financial Outlook assumes the following rates for the Unappropriated Reserve with a goal to achieve 8.0% contribution by fiscal year 2012:

- Fiscal Year 2008 6.0%
- Fiscal Year 2009 6.5%
- Fiscal Year 2010 7.0%
- Fiscal Year 2011 7.5%
- Fiscal Year 2012 8.0%

3. DEFERRED MAINTENANCE/CAPITAL IMPROVEMENTS

Over the years, the City has undertaken several exercises to account for needs for which no funding has been identified. This total inventory is daunting. While the Baseline Five-Year Financial Outlook does not attempt to solve this funding challenge, it is important that policy makers do not lose sight that demand on the City resources extend beyond the annual operating budget.

Deferred Maintenance/Capital Improvements includes all needed repairs to the City facilities, including roof replacement, heating and cooling system upgrades, painting, floor covering repair, structural repairs, as well as repairs and improvements to storm drains and streets. It is estimated that the City's deferred maintenance/ capital needs, excluding Water and Wastewater, may be at least \$800 to \$900 million. Presently staff is compiling an inventory of all needs and will have a completed list with the estimated projected costs sometime in fiscal year 2008. Until then, several assumptions were made which have been incorporated into the Financial Outlook.

First of all, a portion of the deferred maintenance/capital improvements can be financed over time and a portion should be cash funded each year. Given the lack on detailed information, it has been assumed that 50% of the improvements to facilities will be on a pay-as-you-go basis and 50% will be financed. As it relates to streets and storm drain projects, 25% of the improvements will be on a pay-as-you-go basis and 75% will be financed. These proportions will be updated as new information becomes available. In addition, regardless of the amount of funding made available for these projects, there are practical limits on how much work can be handled in any given fiscal year. The forecast assumes that \$5 million can be spent on facility repairs and improvements in fiscal year 2008 (which will be 100% paid for with cash) and \$50 million each year thereafter which will be 50% paid for with cash and 50% will be financed. With respect to storm drains and streets, the forecast assumes that \$33 million can be spent in fiscal year 2008, \$70 million in fiscal year 2009 and \$90 million each year thereafter. These projects will be funded on a 25%/75% ratio as described above.

	Forecast 2008	Forecast 2009	Forecast 2010	Forecast 2011	Forecast 2012
	(in millions)				
Deferred Maintenance/Capital	\$ 38.0	\$ 120.0	\$ 140.0	\$ 140.0	\$ 140.0
<i>Related Cashflow Requirements</i>	<i>\$15.725</i>	<i>\$52.725</i>	<i>\$66.975</i>	<i>\$76.225</i>	<i>\$85.475</i>

Exhibit 5

From: "Diann Shipione Shea" <diann@san.rr.com>
To: "Lawrence Grissom" <LGrissom@sandiego.gov>
Date: 9/5/2003 4:02 PM
Subject: Incorrect Pension Materials In Bond Solicitation Circular
CC: <dick.murphy@sandiego.gov>, "Rick Roeder" <rickro@grsnet.com>, "Fred Pierce" <fpierce@foundation.sdsu.edu>

Mr. Larry Grissom
Administrator
San Diego City Employees Retirement System
410 B Street - Suite 400
San Diego, CA 92101

Dear Larry,

"The actuary believes the Corridor funding method is an excellent method for the City and that it will be superior to the PUC funding method. The actuary is in the process of requesting the GASB to adopt the Corridor funding method as an approved expending method which would then eliminate any reported NPO."

The independent SDCERS Actuary indicates that these comments are, in fact, dated and taken out of context. He apparently was not asked to opine as to his current thoughts on the "Corridor funding method" which he views in a very different light than that being represented to the purchasers of these securities. Other aspects of the circulated information are likewise incorrect.

From my own reading, the materials do not provide any of the material deficit concerns even at the levels described by our staff.

As a SDCERS Trustee it is my responsibility to bring this to your attention so it can be appropriately addressed so the pension fund will not in anyway be responsible or at risk. Please provide me with written confirmation of such at your earliest convenience.

If you have any questions please contact me at 619-261-3618.

Thank you.

Sincerely,

Diann Shipione
SDCERS Trustee

EXHIBIT # 73

Exhibit 6

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933

Release No. 8751 / November 14, 2006

SECURITIES EXCHANGE ACT OF 1934

Release No. 54745 / November 14, 2006

ADMINISTRATIVE PROCEEDING

File No. 3-12478

In the Matter of

City of San Diego, California,

Respondent.

**ORDER INSTITUTING CEASE-
AND-DESIST PROCEEDINGS,
MAKING FINDINGS, AND
IMPOSING A CEASE-AND-DESIST
ORDER PURSUANT TO SECTION
8A OF THE SECURITIES ACT OF
1933 AND SECTION 21C OF THE
SECURITIES EXCHANGE ACT OF
1934**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 ("Securities Act") and Section 21C of the Securities Exchange Act of 1934 ("Exchange Act"), against the City of San Diego, California (the "City" or "Respondent").

II.

In anticipation of the institution of these proceedings, the City has submitted an Offer of Settlement ("Offer"), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over it and the subject matter of these proceedings, which are admitted, the City consents to the entry of this Order Instituting Cease-and-Desist Proceedings, Making Findings, and Imposing a Cease-and-Desist Order Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934 ("Order"), as set forth below.

III.

On the basis of this Order and the City's Offer, the Commission finds that:¹

A. SUMMARY

This matter involves the City of San Diego's violations of the antifraud provisions of the federal securities laws in connection with the offer and sale of over \$260 million in municipal bonds in 2002 and 2003. At the time of these offerings, City officials knew that the City faced severe difficulty funding its future pension and health care obligations unless new revenues were obtained, pension and health care benefits were reduced, or City services were cut. The City's looming financial crisis resulted from (1) the City's intentional under-funding of its pension plan since fiscal year 1997; (2) the City's granting of additional retroactive pension benefits since fiscal year 1980; (3) the City's use of the pension fund's assets to pay for the additional pension and retiree health care benefits since fiscal year 1980; and (4) the pension plan's less than anticipated earnings on its investments in fiscal years 2001 through 2003.

Despite the magnitude of the problems the City faced in funding its future pension and retiree health care obligations, the City conducted five separate municipal bond offerings, raising more than \$260 million, without disclosing these problems to the investing public. In each of these offerings, the City prepared disclosure documents that are used with municipal securities offerings—that is, preliminary official statements and official statements—and made presentations to rating agencies.² In addition, in 2003 it prepared and filed information pursuant to continuing disclosure agreements under Exchange Act Rule 15c2-12 with respect to \$2.29 billion in outstanding City bonds and notes.³ Although the City provided some disclosure about its pension and retiree health care obligations, it did not reveal the gravity of the City's financial problems, including that:

- The City's unfunded liability to its pension plan was expected to dramatically increase, growing from \$284 million at the beginning of fiscal year 2002 and \$720

¹ The findings herein are made pursuant to the City's offer of settlement and are not binding on any other person or entity in this or any other proceeding.

² An official statement is a document prepared by an issuer of municipal bonds that discloses material information regarding the issuer and the particular offering. A preliminary official statement is a preliminary version of the official statement that is used to describe the proposed new issue of municipal securities prior to the determination of the interest rate(s) and offering price(s). The preliminary official statement may be used to gauge interest in an issue and is often relied upon by potential purchasers in making their investment decisions.

³ Continuing disclosures are disclosures of material information relating to prior years' municipal bond offerings that are periodically provided to the marketplace by the bonds' issuer pursuant to contractual agreements and Exchange Act Rule 15c2-12.

million at the beginning of fiscal year 2003 to an estimated \$2 billion at the beginning of fiscal year 2009;

- The City's total under-funding of the pension plan was also expected to increase dramatically, growing tenfold from \$39.2 million in fiscal year 2002 to an estimated \$320 to \$446 million in fiscal year 2009;
- The City's projected annual pension contribution would continue to grow, from \$51 million in 2002 to \$248 million in 2009; and
- The estimated present value of the City's liability for retiree health benefits was \$1.1 billion.

The City's enormous pension and retiree health liabilities and failure to disclose those liabilities placed the City in serious financial straits. When the City eventually disclosed its pension and retiree health care issues in fiscal year 2004, the credit rating agencies lowered the City's credit rating. The City also has not obtained audited financial statements for fiscal years 2003, 2004, and 2005.

Consequently, the City violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit the making of any untrue statement of material fact or omitting to state a material fact in the offer or sale of securities.⁴

B. THE RESPONDENT

City of San Diego, California is a California municipal corporation with all municipal powers, functions, rights, privileges, and immunities authorized by the California Constitution and laws, including the power to issue debt. The City is the seventh most populous city in the country, with approximately 1.3 million residents.

C. RELATED PARTY

San Diego City Employees' Retirement System ("CERS") is a defined benefit plan⁵ established by the City to provide retirement, disability, death, and retiree benefits to its members,

⁴ The Commission acknowledges that in the City's offering documents for sewer revenue bonds issued in 1995, 1997, and 1999 and sewer revenue bonds that were offered but not issued in 2003, in its continuing disclosures, and in its communications with rating agencies, the City failed to disclose that the City's wastewater fee rate structure did not comply with certain federal and state clean water laws, that the City was not in compliance with the terms of certain government grants and loans, and that the City could have been required to repay those grants and loans due to such non-compliance. The offerings in the 1990s, however, predate the offerings that are the subject of this Order, and the City did not consummate the 2003 offering because issues arose regarding the adequacy of its pension disclosure. In addition, in 2004, the City came into compliance with the federal and state clean water laws and the grant and loan covenants by adopting a new fee rate structure. The City thereby avoided having immediately to repay the government grants and loans.

⁵ A defined benefit plan is a traditional pension plan under which pre-determined retirement benefits are based on a formula established by factors such as age, years of service, and

i.e., City employees and their beneficiaries. CERS is administered by the CERS Board, which during the relevant period included eight City employees, including the City Treasurer and the Assistant City Auditor and Comptroller, one retiree, and three non-employee City citizens appointed by the City Council as CERS Board members.

D. FACTS

1. Background

a. Structure of the City's Government

Until January 2006, the City's form of government was a city manager system.⁶ Legislative powers of the City were vested in the City Council ("Council"), which made policies and appointed a professional city manager to carry out those policies. The Council was composed of nine full-time Council members who served for staggered four-year terms. Eight of the Council members represented the City's eight districts. The Mayor, who was elected at large, presided at the meetings of the Council and served as the official head of the City for ceremonial purposes. The Mayor and each Council member had one vote; the Mayor had no veto power.

Prior to 2006, the City Manager ("Manager") was the City's chief administrative officer and had substantial control over local government decisions. The Manager, appointed by the Mayor and Council, advised the Council of the City's present and projected financial condition, appointed and removed all city department heads (except the City Auditor and Comptroller ("City Auditor"), City Attorney, and City Clerk), prepared the City's budget, and carried out the Council's budget plan. During the relevant time period, the City's general fund budget was less than \$900 million. The City Manager had several Deputy City Managers, one of whom was in charge of the Financing Services Department, which had responsibility for overseeing the City's issuance of municipal securities.

Prior to 2006, the City Auditor was also appointed by the Council, and was required to file at least monthly with the City Manager and Council a summary statement of revenues and expenses for the preceding accounting period.⁷ The Auditor was the City's chief financial officer and was responsible for the preparation and issuance of the City's Comprehensive Annual Financial Reports, also referred to as CAFRs. The City's Comprehensive Annual Financial Reports included audited financial statements prepared pursuant to standards established by the

compensation, and in which the employer bears risk if the employer and employee contributions and the investment return on those contributions are not sufficient to fund the pension benefits.

⁶ In January 2006, the City transitioned from a City Manager / Council form of government to a strong Mayor form of government. Under the new system, the Mayor became the City's chief executive officer and the City Manager's position was eliminated. The Council continues to act as the legislative body. City of San Diego City Charter, Article XV.

⁷ City of San Diego City Charter, Article V, Section 39.

Government Accounting Standards Board ("GASB")⁸ and various statistical, financial, and other information about the City. Portions of the Comprehensive Annual Financial Reports for the years ended June 30, 2001, and June 30, 2002 were attached as appendix B to the preliminary official statements and the official statements. The Comprehensive Annual Financial Reports for 2001 and 2002 were also filed as continuing disclosures.

The elected City Attorney served as the chief legal officer for the City. The City Attorney's office advised the Council, City Manager, and all City departments on legal matters, including disclosure in the City's securities offerings. The City Attorney was responsible for preparing all ordinances, resolutions, contracts, and other legal documents.

b. The City's Pension Plan

The City provided a defined benefit pension plan and retiree health care benefits to its employees through CERS. CERS functioned as a trust for the benefit of its members (i.e., approximately 18,500 current and former City employees and officials). The City was the creator of the trust and determined its terms, including the members' required contributions and the levels of benefits. CERS was administered by a Board of Administration, which controlled the investment of CERS's funds and which owed fiduciary duties to CERS members. CERS's assets consisted of past contributions by the City and CERS members and investment earnings on those funds. CERS's liabilities consisted of operating expenses and the future pension benefits that were owed to members.

Each year, CERS hired an actuary to determine the value of the plan's assets and liabilities based on certain actuarial assumptions and the amount that needed to be contributed to the plan so that the plan accumulated sufficient assets to pay pension (but not health care) benefits when due.⁹ Pursuant to the City Charter, the City was to contribute half of that amount, which was expressed in terms of a percentage of payroll expenses, with the other half to be contributed by the employees, which amount was determined as a percentage of compensation based on the employee's age upon entry into CERS.

At least three concepts were particularly important in the disclosure to the public of the City's pension obligations and funding of those obligations: (1) CERS's funded ratio; (2) the

⁸ GASB is the organization that establishes standards of state and local governmental accounting and financial reporting.

⁹ An actuarial valuation is a determination by an actuary, as of a specified date, of the normal cost, actuarial accrued liability, actuarial value of the assets, and other relevant values for a pension plan based on certain actuarial assumptions. The actuarial value of assets refers to the value of cash, investments, and other property belonging to a pension plan as used by the actuary for the purpose of preparing the actuarial valuation for the pension plan. The actuarial accrued liabilities are what is owed in connection with past services, as determined by one of the actuarial cost methods. Actuarial assumptions are estimates of future events with respect to certain factors affecting pension costs, including rates of mortality, disability, employee turnover, retirement, rates of investment income, and salary increases. Actuarial assumptions are generally based on past experience, often modified for projected changes in conditions.

City's unfunded liability to CERS; and (3) the City's net pension obligation, also called the NPO. CERS's funded ratio was the ratio of its assets to liabilities. The City's unfunded liability to CERS was the dollar shortfall between CERS's assets and liabilities. The City's net pension obligation was the cumulative difference between what the City actually contributed to CERS and the amount that the City would have contributed had it conformed to a funding method recognized by GASB.

2. The City's Pension and Retiree Health Care Benefits and Funding of CERS

The City failed to disclose material information regarding substantial and growing liabilities for its pension plan and retiree health care and its ability to pay those obligations in the future in the disclosure documents for its 2002 and 2003 offerings, in its continuing disclosures filed in 2003, and in its presentations to the rating agencies. As more fully described below, the City's substantial and growing pension and retiree health care liabilities resulted from several factors, including: (1) the City's intentional under-funding of its annual pension contribution; (2) the City's granting of new retroactive pension benefits; (3) the City's use of certain CERS earnings to pay for various additional pension and retiree health care benefits and to pay a portion of employees' pension contributions; and (4) CERS's earning less than anticipated returns on its investments.

a. The City's Historical Practice of Using "Surplus Earnings" to Fund Pension and Retiree Health Care Benefits

In fiscal year 1980, the City began instructing CERS to use "surplus earnings"—i.e., earnings above the actuarially projected 8% return rate¹⁰—to fund an ever-increasing amount of additional benefits for CERS members. Pension plans typically retain surplus earnings to support the plan's financial soundness and to make up for years in which earnings fall short of the assumed return rate. Rather than retaining its surplus earnings, the City began using surplus earnings in fiscal year 1980 to fund an annual extra or "13th check" to retirees. The City continued using surplus earnings to pay for retiree health care benefits in fiscal year 1982 and to pay an ever-increasing amount of the employees' CERS contributions in fiscal year 1998.¹¹

In total, the City used surplus earnings to pay pension benefits and employees' contributions totaling \$150 million as of the end of fiscal year 2001 and an additional \$25 million as of the end of fiscal year 2002. According to a 2005 CERS audit, the City's use of surplus

¹⁰ Without regard to its actual historical rate of return on investments, the CERS Board assumed an annual rate of investment return of 8%, which the actuary incorporated into his calculations. CERS defined surplus earnings as the amount of realized investment earnings in excess of the actuarially projected 8% return rate.

¹¹ In fiscal years 2003 and 2004, the City used CERS's surplus earnings from prior years to pay up to 27% of the employees' contributions.

earnings accounted for 17% of the increase in the City's unfunded liability to CERS from fiscal year 1997 through fiscal year 2003.

b. Manager's Proposal 1: The City Proposes Additional Benefits in Exchange for Contribution Relief

In fiscal year 1996, the City agreed to increase significantly and retroactively all employees' pension benefits. The City, however, could not afford to fund the cost of the benefit increases. The City therefore made the pension benefit increases contingent on CERS's agreement to the City's under-funding of its annual contribution to CERS.

In fiscal year 1997, the City and CERS entered into an agreement, which was referred to as Manager's Proposal 1, that set the City's annual contribution at gradually increasing rates through fiscal year 2008. This funding method, which the City termed "Corridor" funding, was not recognized by GASB and set annual funding rates that were not actuarially determined and were projected to be below GASB-recognized funding rates through fiscal year 2006. In other words, under Corridor funding, the City would be intentionally under-funding its annual liability to CERS in fiscal years 1997 through 2006.¹² After fiscal year 2006, it was estimated that the funding rate of Manager's Proposal 1 would equal a GASB-accepted rate. Manager's Proposal 1 also contained a provision intended to protect CERS's financial soundness. Specifically, if CERS's funded ratio fell below 82.3%, the City would have to increase its CERS contribution rate.

In fiscal years 1996 and 1997, the City estimated that under Manager's Proposal 1, by the end of fiscal year 2008, the City's net pension obligation would be \$110.35 million. Because the City's Corridor funding method was not GASB-recognized, GASB required that the City disclose its net pension obligation in its annual financial statements.

c. The Corbett Litigation Requires the City to Fund Additional Retroactive Benefits

In March 2000, the City again retroactively increased pension benefits. Specifically, the City and CERS settled a class action lawsuit brought by CERS members, with *Corbett* as the named class plaintiff.¹³ Under the *Corbett* settlement, the City retroactively gave increased pension benefits to both current and retired City employees, increasing CERS's liabilities. Under

¹² Manager's Proposal 1 was viewed skeptically by some members of the CERS Board who were not City employees. The majority of the CERS Board, however, consisted of City officials who received benefit increases that were contingent on the Board's approval of Manager's Proposal 1. Moreover, CERS's actuary informed the CERS Board that Manager's Proposal 1 was a sound proposal and CERS's fiduciary counsel opined that the Board would be acting within the ambit of its fiduciary discretion in approving Manager's Proposal 1.

¹³ The *Corbett* plaintiffs raised various claims based on a 1997 California Supreme Court decision which held that an employee's salary for purposes of calculating basic pension benefits included the value of overtime and accrued leave.

Manager's Proposal 1, however, the City's contributions to CERS did not increase. As a result, the City's unfunded liability to CERS increased by \$185 million.

In negotiating the *Corbett* settlement, however, the City purposefully structured certain of the increased *Corbett* benefits to avoid having those benefits adversely affect CERS's reported funded ratio and the City's reported unfunded liability to CERS. Specifically, the City structured the *Corbett* settlement so that the increased benefits for retired CERS members were to be paid in a given year only if there were sufficient surplus earnings from that year to pay the benefit. If there were insufficient surplus earnings in a given year to pay the increased benefit, then the cost of the increased benefit would become CERS's liability and would eventually be paid from future years' surplus earnings. The City and CERS treated the increased benefits to retired CERS members as contingent liabilities that were not taken into account in determining CERS's funded ratio or the City's unfunded liability to CERS. As of June 30, 2001, according to CERS's actuary, if the contingent portion of the *Corbett* settlement had been included in CERS's valuation, the City's unfunded liability to CERS would have increased by \$70 to \$76 million and CERS's funded ratio would have decreased by 2% to 2 ½ % from what was actually reported by the City. Thus, the City's pension situation was even more dire than the numbers, as they were reported by the City, indicated.

**d. CERS's Actuary Report for Fiscal Year 2001 Shows a
Dramatic Increase in the City's Pension Liabilities**

In fiscal year 2001, CERS's investment return began to fall short of its anticipated 8% annual return. The City was informed of CERS's declining performance in February 2002, when it received CERS's annual actuarial valuation for fiscal year 2001. This report stated that as of the end of fiscal year 2001, CERS's funded ratio was 89.9% and the City's unfunded liability to CERS was \$284 million, as compared to a funded ratio of 97.3% and an unfunded liability of \$69 million only one year earlier. Moreover, the report noted that if the *Corbett* contingent benefit to CERS retired members were included, the City's unfunded liability to CERS would have increased to at least \$354 million and CERS's funded ratio would have fallen to at least 87.9%.

CERS's actuary attributed these changes to a number of factors, including CERS's actuarial investment losses¹⁴ of \$95.6 million (and warned that there would be further actuarial investment losses in fiscal year 2002 unless the markets improved during the remaining five months of the fiscal year). In his report, CERS's actuary also warned that "all parties" should be "acutely aware that the current practice of paying less than the [actuarial] computed rate of contribution ... will help foster an environment of additional declines in the funded ratio in absence of healthy investment returns."

In May 2002, the City learned that CERS would likely not have any surplus earnings from fiscal year 2002 to pay for the contingent benefits—specifically, retiree health care benefits, the 13th check, and the *Corbett* increase to retirees.

¹⁴ Actuarial investment losses are the difference between the assumed investment rate, which in the City's case was 8% annually, and the actual investment results.

e. The Blue Ribbon Committee Report Puts the City on Notice about its Growing Pension and Retiree Health Care Liabilities

In April 2002, the City received a warning that the City's pension and retiree health care liabilities would continue to grow and that the City was not adequately planning to meet those liabilities. This came in the form of a report from the City's Blue Ribbon Committee to the City Council.¹⁵ The report stated that the Blue Ribbon Committee had three principal concerns regarding CERS. First, the City was granting retroactive retirement benefit increases but pushing the cost of those benefit increases into the future, long after the individuals involved in the decisions were gone. Second, the City's budgetary process did not adequately comprehend the steadily growing annual expense of the pension contribution, "particularly given the uncontrollable and non-discretionary nature of this liability." The Committee stated that the City's pension contribution would substantially increase and warned that any future benefit increases, particularly retroactive increases, would "significantly exacerbate this problem." Third, the City's budgetary process did not recognize that retiree health care costs were a non-discretionary expense that would grow at an increasing rate and that the City was not paying out of its current year's budget the full cost for their future retiree health benefits. This report thus squarely put the City on notice that it had substantial future pension and healthcare liabilities it would probably be unable to pay under the current system.

f. Manager's Proposal 2: The City Again Proposes Additional Pension Benefits in Exchange for Relief from an Impending Lump Sum Payment

In fiscal year 2003, the City again increased its pension liability by granting additional retroactive benefits, used additional CERS assets to pay for additional pension and retiree health care benefits and an increased portion of the employees' contribution, and obtained additional time to under-fund its annual CERS contribution.

In the second half of fiscal year 2002, the City agreed to increase pension benefits for fiscal year 2003. From as early as October 2001, however, the City was concerned that CERS's funded ratio would fall below the 82.3% floor established by Manager's Proposal 1, which would require the City, at the very least, to increase its contributions to CERS by at least \$25 million to be at a higher GASB-accepted rate.

Concerned about having to pay the additional \$25 million, the City sought to condition the pension benefit increases on the City's obtaining from CERS relief from the floor of Manager's Proposal 1. In November 2002, the City and CERS agreed to Manager's Proposal 2 and the City

¹⁵ In April 2001, the Mayor had appointed a nine-member committee of San Diego citizens, known as the Mayor's Blue Ribbon Committee on City Finances, to independently evaluate the City's fiscal health and make any appropriate recommendations. In February 2002, the Blue Ribbon Committee presented its report to the Council's Rules Committee, identifying nine areas of concern, two of which related to the City's pension fund. The same report was made to the full Council in April 2002.

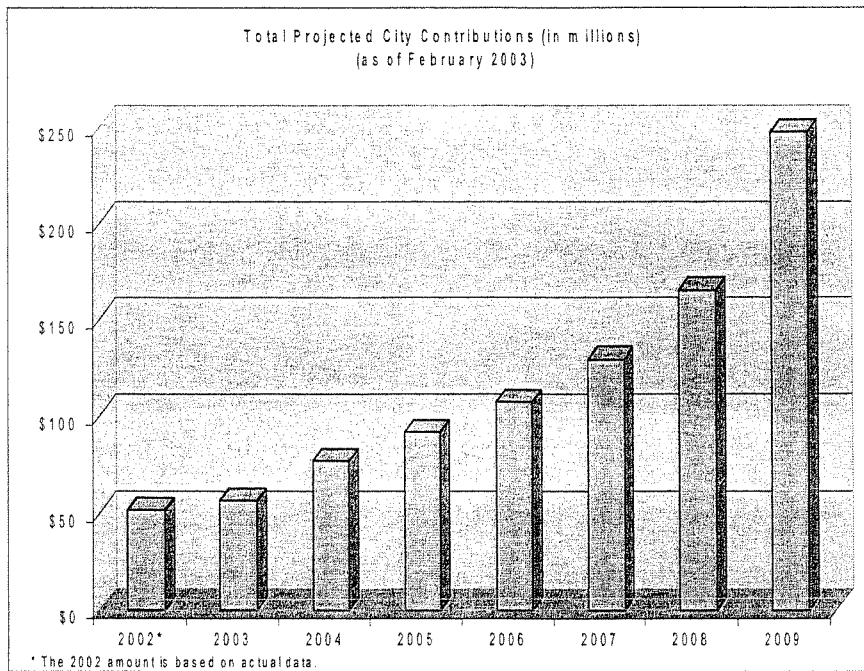
adopted the increased pension benefits as of July 2002. Under Manager's Proposal 2, once CERS's funded ratio fell below 82.3%, the City would have five years to increase its contributions to CERS to reach a GASB-recognized funding rate.

As a result of CERS's actuarial losses in fiscal year 2002, CERS did not have surplus earnings to pay the 13th check, the cost of retiree health care, and the *Corbett* benefit increase to retired CERS members. In conjunction with Manager's Proposal 2, however, the City directed CERS to use certain of its reserve accounts to pay the 13th check and the retiree health care benefits, and to pay an increased portion of certain City employees' CERS contributions. The reserve funds could have been used to increase CERS's funded ratio and decrease the City's unfunded liability to CERS; instead, the City directed that CERS use the reserve funds to pay additional benefits.

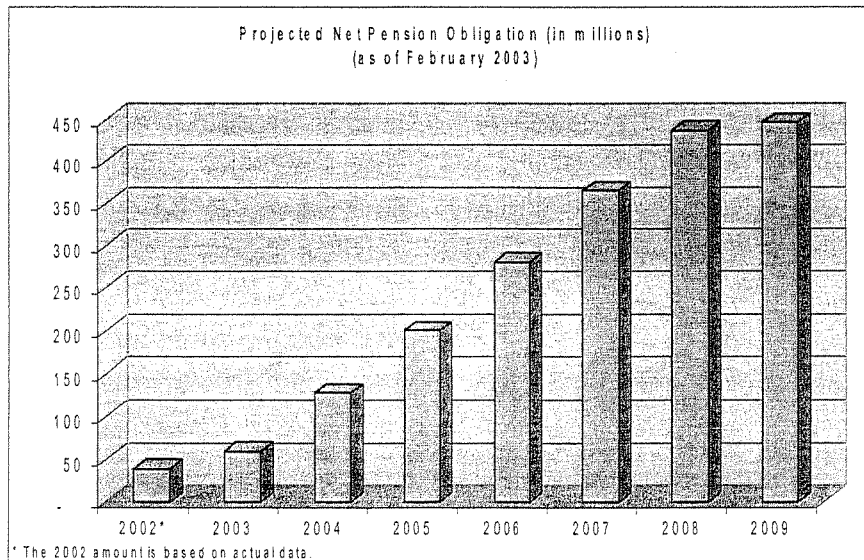
g. CERS's Actuary Report for Fiscal Year 2002 and Projections for the Future Show that the City Faces Substantial Problems Funding its Pension and Retiree Health Care Liabilities

In early 2003, the City received two reports from CERS's actuary. These reports provided the City with negative information regarding the present and projected status of CERS's funded ratio and the City's unfunded liability to CERS. First, in January 2003, the City received CERS's actuary report for fiscal year 2002. This report stated that during fiscal year 2002, CERS suffered an actuarial loss of \$364.8 million and that as of the end of fiscal year 2002, CERS's funded ratio was 77.3% and the City's unfunded liability to CERS was \$720 million, as compared to a funded ratio of 89.9% and unfunded liability of \$284 million only one year earlier. The actuary's report further stated that if the *Corbett* contingent benefit to CERS retired members had been included, the City's unfunded liability to CERS would have been at least \$790 million, and CERS's funded ratio would have been approximately 75.3%. In the concluding comment, the actuary stated that CERS was "in adequate condition," which was the first time that the actuary had not described CERS as "actuarially sound."

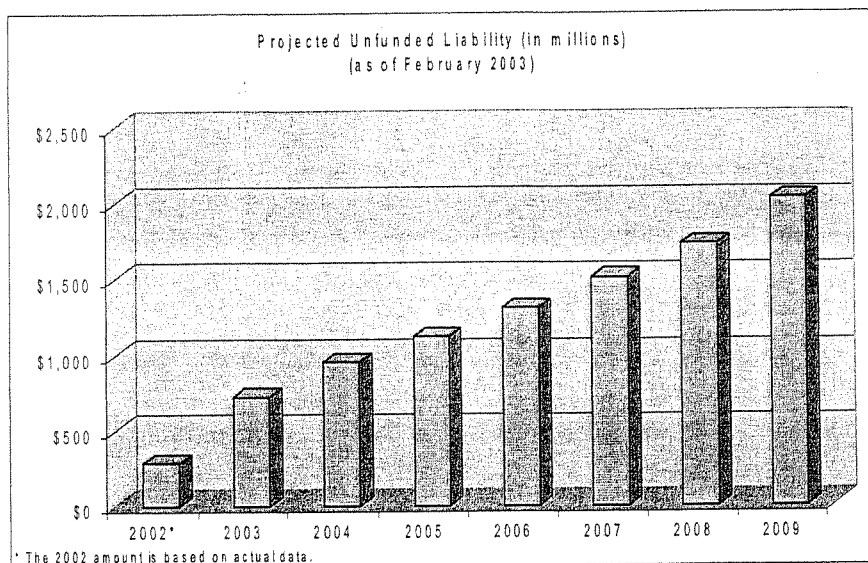
Second, in February 2003, CERS's actuary provided to the City projections of the City's contributions under Manager's Proposal 2, the City's net pension obligation, the City's unfunded liability to CERS, and CERS's unfunded ratio. Specifically, the City's contribution rate was projected to more than quadruple—from 9.83% of payroll in fiscal year 2002 (\$51 million) to 35.27% of payroll in fiscal year 2009 (\$248 million). The following chart illustrates the growth in the City's projected annual contribution to CERS:



The City's net pension obligation was projected to grow by tenfold—from \$39.23 million in fiscal year 2002 to as much as \$446 million in fiscal year 2009. The following chart illustrates the growth in the City's projected net pension obligation:



The City's unfunded liability was projected to increase more than seven fold—from \$284 million at the beginning of fiscal year 2002 to \$2 billion at the beginning of fiscal year 2009. CERS's funded ratio was projected to continue to fall—from 77.3% at the beginning of fiscal year 2003 to 65.6% at the beginning of fiscal year 2009. The following chart illustrates this dramatic increase in the City's projected unfunded liability to CERS:



The City had knowledge of these projections prior to all of its 2003 municipal securities offerings.

h. The *Gleason* Litigation: CERS Members Challenge Manager's Proposal 1 and Manager's Proposal 2

Further evidence that the City's under-funding of CERS was potentially threatening the City's future fiscal health came in January 2003, when CERS members filed a class action, with *Gleason* as the named class plaintiff, against the City and CERS alleging breaches in connection with the City's under-funding of CERS under Manager's Proposal 1 and Manager's Proposal 2. Among other things, the *Gleason* complaint alleged that by 2009, the City would owe approximately \$2.8 billion to CERS, with an annual City budget expense of more than \$250 million. In March 2003, the CERS attorney in the *Gleason* litigation advised CERS that (1) certain CERS Board members had breached their fiduciary duty by adopting Manager's Proposal 2; and (2) CERS should exercise its right to nullify Manager's Proposal 2. The CERS Board, which included the City Treasurer and the Assistant City Auditor and Comptroller, rejected this advice. If Manager's Proposal 2 had been nullified, the City would have been required to make an immediate potential payment to CERS of up to \$159 million.

i. CERS's Response to the Blue Ribbon Committee Report Advises the City's Officials of the Growing Pension and Retiree Health Care Crisis.

In February 2003, additional detailed information about the City's pension funding crisis was presented to City officials when CERS responded to the Blue Ribbon Committee's report.¹⁶ In its response, CERS advised the City that as of June 30, 2002, CERS's funded ratio had fallen to 77.3% and the City's unfunded liability to CERS had increased to \$720 million. The response also stated that the falling funded ratio and the increasing unfunded liability resulted from three factors: a dramatic decline in CERS's investment performance in fiscal years 2001 and 2002; the City's granting of increased benefits; and the City's contributions to CERS at less than a GASB-recognized rate.

With respect to the City's under-funding, the response stated that the annual amount of the City's under-funding of CERS continued to increase in fiscal years 2002 and 2003, which was contrary to the initial projections from Manager's Proposal 1 that the annual amount of under-funding would decline beginning in fiscal year 2001. The response further stated that the City's net pension obligation would reach \$102 million by the end of fiscal year 2003 and \$423 million by the end of fiscal year 2009.

The response also discussed the City's future liability for retiree health care. CERS's actuary had estimated that the present value of the City's liability for future retiree health care was in excess of \$1.1 billion. The response further stated that the City was not making any contributions to CERS to pay for this liability, that CERS had been paying for this liability with money in a reserve funded with CERS's surplus earnings from prior years, that the reserve would be depleted in fiscal year 2006, and that in fiscal year 2006, the City would have to pay an estimated \$15 million for retiree health care. The response warned that absent a change in the benefit and a dramatic decrease in future health care costs, the City could be facing significant future funding obligations. The response recommended that the City consider funding this future health care liability as part of its annual contribution to CERS.

j. The City's Study of Its Pension Obligations Concludes that the City's Pension Liabilities Could Negatively Impact the City's Credit Rating

In April 2003, the City received additional information regarding the projected growth of its future pension liabilities and the possible negative effect those liabilities would have on the City's credit rating and ability to issue municipal securities. In February 2003, the City hired a financial adviser to analyze CERS's funding and to develop potential solutions. On April 16,

¹⁶ From February 9 through 13, 2003, the local newspaper wrote three front page, above-the-fold articles about the City's under-funded pension system and the CERS response. The newspaper articles explained that (1) by the end of FY 2009 the City's unfunded liability to CERS was projected to increase to almost \$2 billion; and (2) the City's unfunded liability for retiree health care was estimated to be \$1.1 billion.

2003, the financial adviser provided to the City a preliminary pension analysis. In its analysis, the financial adviser stated that because of the City's under-funding, the City's unfunded liability would continue to grow and CERS's funded ratio would continue to fall through fiscal year 2021 regardless of actuarial gains or losses. The financial adviser estimated that under Manager's Proposal 2, the City's unfunded liability to CERS would grow to \$1.9 billion at the end of fiscal year 2009 and to \$2.9 billion at the end of fiscal year 2021, and CERS's funded ratio would fall to 66.5% at the end of fiscal year 2009 and would be 67% at the end of fiscal year 2021.

The preliminary pension analysis also stated that the City's large unfunded liability to CERS would cause the City's contribution to CERS to increase dramatically. The analysis estimated that the City's contribution rate to CERS would more than double—from 18.87% of payroll (or \$107.5 million) in fiscal year 2004 to 40.9% of payroll (\$286.9 million) in fiscal year 2009.

The preliminary pension analysis also discussed the effect that the City's unfunded liability would have on the City's credit rating. The financial adviser stated that the City's current unfunded liability would not only trigger an adverse credit event but that the rating agencies would expect the City to develop a plan to reduce its unfunded liability by increasing its annual contributions and/or funding the unfunded liability by issuing bonds. The financial adviser further stated that if the City did not develop and implement such a plan, the City's unfunded liability could cause the City "significant credit and legal challenges." The City's disclosures in 2003 failed to inform investors of the financial adviser's analysis.

3. The Offerings, Continuing Disclosures, and Rating Agency Presentations

a. The Bond Offerings and the City's Preparation of the Offerings' Disclosure Documents

During 2002 and 2003, the City conducted the following five municipal securities offerings totaling \$261,850,000 in par value:

- \$25,070,000 Public Facilities Financing Authority of the City of San Diego Lease Revenue Bonds, Series 2002B (Fire and Safety Project) (June 2002)
- \$93,200,000 City of San Diego, 2002-03 Tax Anticipation Notes Series A (July 2002)
- \$15,255,000 City of San Diego/Metropolitan Transit Development Board Authority 2003 Lease Revenue Refunding Bonds (San Diego Old Town Light Rail Transit Extension Refunding (April 2003)
- \$17,425,000 City of San Diego 2003 Certificates of Participation (1993 Balboa Park/Mission Bay Park Refunding) (May 2003)
- \$110,900,000 City of San Diego 2003-04 Tax Anticipation Notes Series A (July 2003)

A transactional financing team prepared the offering documents, that is, the preliminary official statement and the official statement, for each of the five municipal bond offerings. The

financing team consisted of outside consultants and officials from the City Manager's office (financing services division), Auditor and Comptroller's office, and the City Attorney's office. The outside consultants included, among others, bond counsel, disclosure counsel, and underwriters. The preliminary official statement and the official statement for each of the five offerings consisted of a description of the offering, a general description of the City, including financial, economic, statistical, and other information in appendix A, and audited annual financial statements from the City's Comprehensive Annual Financial Reports in appendix B. Information regarding its pension and retiree health care obligations was provided in both appendices A and B.

The outside consultants took the lead in drafting the description of the bond offerings. City officials in the financing services division were responsible for drafting appendix A. The financing services division updated Appendix A on an ongoing basis and at the time of a bond offering, forwarded the latest version of Appendix A to the entire financing team. The team met several times to review, comment on, and ultimately finalize the preliminary official statements and official statements at "page-turner meetings." Appendix B was prepared by the Auditor's office and the City's outside auditor. The Council approved all of the 2002 and 2003 offerings at open session meetings.

b. The Continuing Disclosures

During the relevant period, the City also filed annual continuing disclosures relating to its \$2.29 billion in outstanding bonds for the purpose of updating investors on the state of the City's finances.¹⁷ City officials in the financing services division coordinated, reviewed, and filed the 2002 and 2003 continuing disclosures. Almost all of these continuing disclosures included appendix A and portions of the City's Comprehensive Annual Financial Reports. The financing services division was responsible for ensuring that the most updated and accurate version of appendix A was attached to the continuing disclosures before they were filed.

c. The 2003 Rating Agency Presentations

The City made presentations to the rating agencies on a yearly basis, both in connection with specific bond offerings and to update the rating agencies on the City's general credit. The presentations were made orally with PowerPoints in meetings with representatives from Fitch Ratings, Moody's Investors Service, and Standard and Poor's. In 2003, the rating agencies specifically asked the City to address the pension plan as part of its annual presentations. These presentations were important because they directly affected the City's bond ratings. The 2003

¹⁷ An underwriter of municipal securities covered by Exchange Act Rule 15c2-12 may not purchase or sell municipal securities in connection with an offering unless the issuer has undertaken in a written agreement or contract for the benefit of the bondholders to provide its audited annual financial statements and certain other annual financial and operating information, to nationally recognized municipal securities information repositories and state information depositories designated by the Commission and to provide notices of certain material events and notices of any failures to file on the nationally recognized municipal securities information repositories or the Municipal Securities Rulemaking Board and state information depositories.

PowerPoint presentations were prepared and presented by officials from the City Manager's office, including the financing services division, and the City Auditor and Comptroller's office. The financing services division drafted the pension portion of the 2003 PowerPoint presentation. Officials from the City Auditor's office made the oral presentation on the pension plan and fielded numerous questions on that topic from the rating agencies.

4. The False and Misleading Disclosures

In the preliminary official statement and the official statements for the 2002 and 2003 offerings, the 2003 presentations to the rating agencies, and the 2003 continuing disclosures, the City made substantial disclosures regarding (1) the City's policies for funding CERS; and (2) the status of CERS's funding and the City's liability to CERS. Additionally, in the preliminary official statements, the official statements, and continuing disclosures, the City made certain representations regarding its retiree health care obligations. The disclosures (collectively "Disclosures"), however, were misleading because the City failed to include material information regarding the City's current funding of its pension and retiree health care obligations, the City's future pension and retiree health care obligations, and the City's ability to pay those future obligations.

First, with respect to the pension issues, the City failed in the Disclosures to reveal several material facts, including that (1) the City was intentionally under-funding its pension obligations so that it could increase pension benefits but push off the costs associated with those increases into the future; (2) because of the City's under-funding of its pension plan, its net pension obligation was expected to continue to grow at an increasing rate, reaching from \$320 million to \$446 million by the end of fiscal year 2009; (3) the City's unfunded liability was expected to continue to grow at a substantial rate, reaching approximately \$2 billion by fiscal year 2009; (4) this growth in the City's unfunded liability resulted from the City's intentional under-funding of its pension plan, the City's granting of new retroactive pension benefits, the City's use of pension plan earnings to pay additional benefits, and the pension plan's less than anticipated investment return; (5) the City's annual pension contribution was expected to more than quadruple by fiscal year 2009; and (6) the City would have difficulty funding its future annual pension contributions unless it obtained new revenues, reduced pension benefits, or reduced City services. Moreover, the City falsely disclosed in Appendix B to its preliminary official statements and its official statements that its net pension obligation was funded in a reserve.

Additionally, with respect to retiree health care benefits, the City failed to disclose in its preliminary official statements, official statements, and continuing disclosures that¹⁸ (1) the estimated present value of its liability for retiree health care was \$1.1 billion; (2) the City had been covering the annual cost for retiree health care with pension plan earnings from prior years that were expected to be depleted in fiscal year 2006; (3) after fiscal year 2006, the City would have to pay for the retiree health care benefits from its own budget at an estimated annual cost of \$15 million; and (4) the City had not planned for paying such additional costs.

¹⁸ The issue of retiree health care was not addressed in the rating agency presentations.

5. The City's Knowledge of the Misleading Disclosures

The City, through certain of its officials, knew that its Disclosures were misleading. The Mayor and Council were responsible for approving the issuance of the bonds and notes, including issuance of the preliminary official statements and official statements. The Mayor and Council delegated final approval of the official statements to the City Manager. The City Manager's office was responsible for the preparation of the preliminary official statements and the official statements, including appendix A. The City Auditor's office was responsible for the preparation of appendix B to the preliminary official statements and official statements. Through their designees on the CERS Board, among other things, both the City Manager's and the City Auditor's offices had knowledge about the City's use of CERS's surplus earnings, Manager's Proposals 1 and 2, CERS's actuary reports for fiscal years 2001 and 2002, and CERS's response to the Blue Ribbon Committee Report. Also, several representatives of the City Manager's office, City Attorney's office, and Auditor and Comptroller's office attended relevant closed session meetings of the Council where Manager's Proposals 1 and 2 and the *Corbett* and *Gleason* litigations were discussed. Moreover, the Blue Ribbon Committee Report and CERS's response to the Blue Ribbon Committee Report were both presented to a committee of the Council at which officials from the City Manager's and Auditor and Comptroller's office were present. Finally, the offices of the City Manager and the City Auditor were responsible for the City's study of its pension obligations that occurred in early 2003. Through their participation and involvement in the above-referenced matters, certain city officials knew or were reckless in not knowing that the Disclosures were false and misleading.

Specifically, by early 2002, the City, through its officials, knew, among other things, that (1) CERS's funded ratio would likely fall below the 82.3% floor set by Manager's Proposal 1; (2) the City was proposing Manager's Proposal 2 to avoid the effects of CERS's falling below the floor; (3) Manager's Proposal 2 allowed the City more time to under-fund CERS; and (4) the Blue Ribbon Committee had raised concerns about the City's under-funding of CERS and the future retiree health care liability. By early 2003, the City, through its officials, knew, among other things, that (1) the City's projected total contributions to CERS would grow from \$77 million in fiscal year 2004 to \$248 million in fiscal year 2009; (2) CERS had fallen below the 82.3% floor of Manager's Proposal 1; (3) the City and CERS had adopted Manager's Proposal 2 to allow the City more time to under-fund CERS; and (4) CERS was using reserved surplus earnings to pay certain benefits and to pay an increased portion of the employees' CERS contribution.

6. Materiality and the City's Voluntary Disclosure

The misleading Disclosures were material in view of the City's overall financial health. The Disclosures were also material given the magnitude of the City's projected annual CERS payments in the future and the potential consequences of those liabilities to the City, including inability to make the payments without reduction in other services.

The nature and level of under-funding brought into question the City's ability to fund the pension and health care benefits in the future as well as its ability to repay the bonds and notes. Under such a scenario, the City could be forced to choose between paying pension contributions, paying what the City owes on its bonds and notes, reducing services, and/or raising fees and taxes.

The materiality of the misleading Disclosures was demonstrated by the impact on the City's bond ratings when it finally disclosed key facts about the pension plan on January 27, 2004 in a voluntary report of information, after a non-employee CERS Board member raised concerns about the City's disclosure. The voluntary report provided information regarding (1) CERS's current and estimated future funded status; (2) the City's current and estimated future liabilities to CERS; (3) the reasons for the substantial decrease in CERS's funded ratio and increase in the City's liability to CERS; (4) the City's previous use of CERS funds to pay for retiree health care and the City's estimated future liabilities for retiree health care; and (5) the City's anticipated difficulty funding its increasing CERS contribution without new City revenues, a reduction in pension benefits, a reduction in City services, or other actions. Shortly after the disclosures in the voluntary report, the rating agencies lowered their ratings on the City's bonds and notes.

E. Legal Discussion

1. The Securities Act and Exchange Act Antifraud Provisions

State and local governments are exempt from the registration and reporting provisions of the Securities Act and the Exchange Act. Similarly, the Commission's authority to establish rules for accounting and financial reporting under Section 19 of the Securities Act and Section 13(b) of the Exchange Act does not extend to municipal securities issuers. The City and other municipal securities issuers, however, are subject to the antifraud provisions of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. In addition, the Commission has promulgated a broker-dealer rule, Exchange Act Rule 15c2-12, which in general limits market access for certain municipal securities issues to those offerings in which the issuer agrees to file annual financial disclosures of specified financial and operating information as well as notices of certain events, if material, and notices of any failures to file with repositories designated by the Commission. The antifraud rules apply to such disclosure and to any other statements made to the market.

Section 17(a) of the Securities Act prohibits misrepresentations or omissions of material facts in the offer or sale of securities. Section 10(b) of the Exchange Act and Rule 10b-5 thereunder prohibit misrepresentations or omissions of material fact in connection with the purchase or sale of any security. These provisions prohibit the making of any untrue statement of material fact or omitting to state a material fact in the offer, purchase, or sale of securities. A fact is material if there is a substantial likelihood that its disclosure would be considered significant by a reasonable investor. Basic Inc. v. Levinson, 485 U.S. 224, 231-32 (1987); TSC Industries, Inc. v. Northway, Inc., 426 U.S. 438, 449 (1976).

Section 17(a)(1) of the Securities Act, Section 10(b) of the Exchange Act, and Rule 10b-5 require a showing that defendants acted with scienter. Aaron v. SEC, 446 U.S. 680, 701-02 (1980). Scienter is "a mental state embracing intent to deceive, manipulate or defraud." Ernst & Ernst v. Hochfelder, 425 U.S. 185, 193 n.12 (1976). In the Ninth Circuit, recklessness satisfies the scienter requirement. Hollinger v. Titan Capital Corp., 914 F.2d 1564, 1569 (9th Cir. 1990) (en banc). Recklessness is "an extreme departure from the standards of ordinary care, and which presents a danger of misleading [investors] that is either known to the defendant or is so obvious

that the actor must have been aware of it.” Id., 914 F.2d at 1569. Scierter, however, need not be shown to establish a violation of Section 17(a)(2) or (3). Aaron v. SEC, 446 U.S. 680, 697 (1980). Violations of these sections may be established by showing negligence. SEC v. Hughes Capital Corp., 124 F.3d 449, 453-54 (3d Cir. 1997); SEC v. Steadman, 967 F.2d 636, 643 n. 5 (D.C. Cir. 1992).

2. The City’s Violations of the Antifraud Provisions of the Securities Act and the Exchange Act

The City’s public disclosures in the preliminary official statements and official statements for its 2002 and 2003 offerings, its 2003 continuing disclosures, and presentations to the rating agencies failed to disclose material information regarding the City’s current funding of its pension and retiree health care obligations, the City’s future pension and retiree health care obligations, and the City’s ability to pay those future obligations. The omission of this information caused the information that was disclosed to be misleading.

This information was material to investors. The magnitude of the City’s unfunded liabilities was enormous. For example, the City knew that by 2009 the unfunded liability would reach \$1.9 billion and its actuarially required contribution would be approximately \$240 million compared to \$51 million in FY 2002. The City’s under-funding of CERS and unfunded liabilities to CERS and for retiree health care were projected to continue to grow at an increasing rate. The increase in the City’s under-funding and unfunded liabilities resulted, in part, from the City’s decisions to increase pension and retiree health care benefits but push the costs of those increases into the future, to use CERS’s prior earnings to cover additional benefits, and to pay a portion of the employees’ contribution to CERS. All of this information raised a question whether the City could pay for these pension and retiree health care obligations and repay the bonds and notes issued by and on behalf of the City.

The City, through its officials, acted with scienter.¹⁹ City officials who participated in drafting the misleading disclosure were well aware of the City’s pension and retiree health care issues and the magnitude of the City’s future liabilities. Moreover, even though the City officials knew that the City’s pension issues were of concern to the rating agencies, they failed to disclose material information regarding the City’s pension and retiree health care issues. In light of the City’s officials’ detailed knowledge of the magnitude of the City’s pension and retiree health care liabilities and of the rating agencies’ interest in those liabilities, the City officials acted recklessly in failing to disclose material information regarding those liabilities.

F. REMEDIAL EFFORTS AND UNDERTAKINGS

1. Since 2005, Respondent has implemented several remedial measures with a view to detect and prevent securities violations. Specifically, the City has terminated certain officials in the City Manager’s and Auditor and Comptroller’s offices or has allowed them to resign. The City has filled these positions with new employees generally having significant relevant experience with

¹⁹ The City’s scienter is based on the mental state of its officials. SEC v. Manor Nursing Centers, Inc., 458 F.2d 1082, 1089 n.3 (2d Cir. 1972).

other municipal governments or the private sector. The City has hired a full time municipal securities attorney who is responsible for coordinating the City's public disclosure and who has conducted continuing education for the City's deputy attorneys on the City's disclosure requirements.

2. The Mayor resigned and has been replaced by a former City police chief. In January 2006, pursuant to a public referendum, the City changed from a strong city manager form of government to a strong mayor form of government.

3. The City has hired new outside professionals including new auditors for its fiscal year audits. The City also hired individuals not affiliated with the City to act as the City's Audit Committee and charged the Committee with investigating the City's prior disclosure deficiencies and making recommendations to prevent future disclosure failures. The City has also hired new disclosure counsel for all of its future offerings, who will have better and more continuous knowledge on the City's financial affairs. This disclosure counsel has conducted seminars for City employees on their responsibilities under the federal securities laws.

4. The City has also enacted ordinances designed to change the City's disclosure environment. First, the City created a Disclosure Practices Working Group, comprised of senior City officials from across city government. The Working Group is charged with reviewing the form and content of all the City's documents and materials prepared, issued, or distributed in connection with the City's disclosure obligations relating to securities issued by the City or its related entities; and conducting a full review of the City's disclosure practices and to recommend future controls and procedures. Second, the Mayor and City Attorney must now personally certify to the City Council the accuracy of the City's official statements. Third, the City Auditor must annually evaluate the City's internal financial controls and report the results to the City Council.

5. Respondent shall comply with the following undertakings to:

- a. Retain, not later than 60 days after the date of this Order, at its expense, an independent consultant not unacceptable to the Commission's staff (the "Independent Consultant"). The City shall require the Independent Consultant to (a) conduct annual reviews for a three-year period of the City's policies, procedures, and internal controls regarding its disclosures for offerings, including disclosures made in its financial statements, pursuant to continuing disclosure agreements, and to rating agencies, the hiring of internal personnel and external experts for disclosure functions, and the implementation of active and ongoing training programs to educate appropriate City employees, including officials from the City Auditor and Comptroller's office, the City Attorney's office, the Mayor, and the City Council members regarding compliance with disclosure obligations; (b) make recommendations concerning these policies, procedures, and internal controls with a view to assuring compliance with the City's disclosure obligations under the federal securities laws; and (c) assess, in years two and three, whether the City is complying with its policies, procedures, and internal controls, whether the City has adopted any of the Independent Consultant's recommendations from prior year(s) concerning such policies, procedures, and internal controls for disclosures

for offerings, and whether the new policies, procedures, and internal controls were effective in achieving their stated purposes;

- b. No later than 10 days following the date of the Independent Consultant's engagement, provide to the Commission staff a copy of an engagement letter detailing the Independent Consultant's responsibilities pursuant to paragraph 5(a) above;
- c. Arrange for the Independent Consultant to issue its first report within 120 days after the date of the engagement and the following two reports within 60 days following each subsequent one-year period from the date of engagement. Within 10 days after the issuance of the reports, the City shall require the Independent Consultant to submit to Kelly Bowers of the Commission's Pacific Regional Office a copy of the Independent Consultant's reports. The Independent Consultant's reports shall describe the review performed and the conclusions reached and shall include any recommendations deemed necessary to make the policies, procedures, and internal controls adequate and address the deficiencies set forth in Section III.D of the Order. The City may suggest an alternative method designed to achieve the same objective or purpose as that of the recommendation of the Independent Consultant provided that the City's Mayor and City Attorney certify in writing to the Commission staff that they have a reasonable belief that the alternative method is expected to have the same objective or purpose as that of the Independent Consultant's recommendation;
- d. Take all necessary and appropriate steps to adopt, implement, and employ the Independent Consultant's recommendations or the City's alternative method designed to achieve the same objective or purpose as that of the Independent Consultant's recommendation; and
- e. Require the Independent Consultant to enter into an agreement that provides that for the period of engagement and for a period of two years from completion of the engagement, the Independent Consultant shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with the City, or any of its present or former affiliates, directors, officers, employees, or agents acting in their capacity; provided however, that the Independent Consultant may enter into an agreement with the City to serve as an independent monitor to oversee the City's remedial efforts with respect to enhanced accountability, greater transparency, increased fiscal responsibility, and independent oversight. Except as permitted above, the agreement will also provide that the Independent Consultant will require that any firm with which he/she is affiliated or of which he/she is a member, and any person engaged to assist the Independent Consultant in performance of his/her duties under this Order shall not, without prior written consent of the Pacific Regional Office, enter into any employment, consultant, attorney-client, auditing or other professional relationship with the City, or any of its present or former affiliates, directors, officers, employees, or agents acting in

their capacity as such for the period of the engagement and for a period of two years after the engagement.

6. In determining whether to accept the City's Offer, the Commission considered these undertakings and remediation measures.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in the City's Offer.

Accordingly, it is hereby ORDERED that:

A. The City cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder; and

B. The City comply with the undertakings enumerated in paragraph 5 of Section III.F. above.

By the Commission.

Nancy M. Morris
Secretary

Exhibit 7

City of San Diego
Labor Relations Office
MEMORANDUM

Date: July 23, 1996
To: Larry Grissom, Retirement Administrator
From: Cathy Lexin, Labor Relations Manager
Subject: ***CITY MANAGER'S RETIREMENT PROPOSAL***

Per your request, attached hereto is a consolidation of the *final* Retirement Proposal as presented to the Retirement Board at its meeting of June 21, 1996. This Proposal was subsequently presented to and approved by the City Council at its meeting of July 2, 1996.

It is my understanding that the action taken by the Board was to defer any action required of them on **Issue No. 1 - Retiree Health Insurance** based on advice of Fiduciary Counsel Dwight Hamilton until such time as a specific health plan was presented for his review and advice and until a Charter amendment occurred enabling the Retirement Board to administer retiree health insurance.

Issue No. 2 - CERS Benefit Changes identified benefit improvements being recommended by the Manager to the City Council; no action was required of the Retirement Board.

It is further my understanding that the Retirement Board approved in concept the recommended actions contained under **Issue No. 3 - Employer Contribution Rates**, and **Issue No. 4 - Surplus Undistributed Earnings and Reserves**, including the set aside of approximately \$135 million from excess undistributed earnings for the purpose of carrying out the proposal, contingent upon the retiree health insurance portion being successfully resolved by January 1, 1997.

RETIREMENT SYSTEM PROPOSAL

(Consolidated from Proposal Dated June 7, 1996 as modified by June 21, 1996 Proposal)

It is the City Manager's intent to recommend changes to the City Employees Retirement System related to: (1) retiree health insurance, (2) retirement plan benefits, (3) employer contribution rates, and (4) retirement system reserves. These proposed changes to plan benefits, retiree health insurance, employer rates and system reserves will require approval of the City Council, CERS Board of Administration as well as an affirmative vote of plan members. The City Manager's proposal is being reviewed by outside fiduciary counsel engaged through the City Attorney's Office and has been presented to the CERS Board's fiduciary counsel and actuary for review and advice to the Board. All proposed changes are conditioned upon and subject to final approval by fiduciary counsel, City Council approval, Retirement Board approval, vote of plan participants, and confirmation of cost estimates by the System's actuary.

The interrelationship of these various issues to each other necessitate that the entire proposal be considered and acted upon concurrently. Furthermore, the substantial financial implications to the City compel that certain actions occur in time for Fiscal Year 1997 budget decisions. Necessary ordinances can be prepared for formal amendments to the Municipal Code subsequent to actions by appropriate bodies (City Council, CERS Board, Plan Participants, Employee Unions). Following are the proposed changes.

Issue No. 1 - RETIREE HEALTH INSURANCE

- A. It is proposed that the obligation for Retiree Health Insurance be moved to CERS effective July 1, 1997, contingent upon advice from its fiduciary counsel that the specific terms of this action are deemed legal and appropriate prior to January 1, 1997. It is the City's intent and expectation in this Proposal that the cost of providing retiree health insurance will not be amortized but rather will be paid on an annual basis from excess undistributed earnings.
- B. Increase premium reimbursement for POA and Local 145 Retiree Health Plans from \$4500/year to \$4995 only for FY97.
- C. Retiree Health Insurance for Pre-1980 Retirees will be provided by the City at the same rate as in FY96 for one additional year, FY97. Contingent upon the approval of item A above, Pre-1980 Retiree Health Insurance will become an ongoing benefit as described in the June 7, 1996 Proposal.
- D. During FY97, a Task Force of City Manager, CERS Board and Labor Organizations working with actuaries, consultants and legal counsel can develop the necessary documentation to design a tax exempt health insurance benefit to be effective July 1, 1997. The Task Force will recommend benefit level subject to approval by CERS, City Council, and issue an RFP for selection of a common provider. POA and Local 145 will assume full responsibility for any incurred claims under existing health insurance policies.

It is the intent that the Task Force described in the June 7 Proposal complete its work and present a recommendation by November 1, 1996. Final approval of the specific Retiree Health Benefit that will be transferred to CERS will be subject to approval of the City Council.

- E. The existing City Health Insurance Trust (@ \$12.5m) will be used to pay for FY97 Retiree Health Insurance.
- F. CERS will establish a Health Insurance Reserve within CERS. Each year, the upcoming year's projected cost of retiree health insurance will be transferred from undistributed earnings and credited to the Health Insurance Reserve.
- G. Actual premium costs and administrative charges will be charged to the Health Insurance Reserve on a pay-as-you-go basis and will not be actuarially funded.

Issue No. 2 - CERS BENEFIT CHANGES

The following benefit changes do not require any action by the CERS Board, but rather are presented as part of the overall proposal.

- A. Eliminate the existing requirement to offset Disability Income.
- B. Purchase of Service Credit: Continue the existing service credit provisions related to refunds, probationary periods, 1981 Plan waiting period and Military & Veteran Code; incorporate all others into a new general provision of a five (5) year purchase of service credit feature, which would also be available to 1/2 time and 3/4 time employees. Employees would pay into the retirement fund an amount, including interest, equivalent to the employee and employer full cost of such service.
- C.. Increase the calculation of the 13th Check for Pre-10/6/80 retirees from \$30 per creditable year of service to \$60 per creditable year of service, and to \$75 per creditable year of service for Pre-12/31/71 retirees. It is also the Manager's intent to conduct a study during the first quarter of FY98 on COLA alternatives including but not limited to a 75% purchasing power formula.

- D. Increase the benefit to General Members for industrial disability retirements from 33-1/3% to 50%; and increase the General Member formula as described below.

General Member Formula

Age	Present Factor	Proposed Factor
55	1.48%	2.00%
56	1.56%	2.00%
57	1.63%	2.00%
58	1.72%	2.00%
59	1.81%	2.08%
60	1.92%	2.16%
61	1.99%	2.24%
62	2.09%	2.31%
63	2.20%	2.39%
64	2.31%	2.47%
65+	2.43%	2.55%

Cost of General Member Improvements:

	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+1.13%	+1.13%	+2.26%
Past Liability	<u>+1.43%</u>	<u> </u>	<u>+1.43%</u>
TOTAL COST	+2.54%	+1.13%	+3.69%

Past liability for these two benefit improvements will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97. The employee's share will be paid from excess earnings for FY97, and by increasing the employee's contribution in FY98 and FY99 as follows: +.56% on 12/27/97 and +.57% effective the earliest date in FY99 that General Employees receive a salary increase.

- E. Improve Lifeguard Safety Member Formula as follows and establish a 90% cap. Any employees who are eligible for a percentage above 90% on 4/1/97, the effective date of implementation of the DROP will be frozen at their rate in effect on 4/1/97. Past liability for this benefit improvement will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97. The employee's share will be paid from excess earnings in FY97, and by increasing the employee's contribution in FY98 and FY99 as follows: +.25% on 12/27/97 and +.25% effective the earliest date in FY99 that Lifeguard employees receive a salary increase.

Age	Present Factor	Proposed Factor
50	2.00%	2.20%
51	2.10%	2.32%
52	2.22%	2.44%
53	2.34%	2.57%
54	2.47%	2.72%
55+	2.62%	2.77%

Cost of Lifeguard Safety Member Improvements:

	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+. 50%	+. 50%	+1.00%
<u>Past Liability</u>	<u>+. 55</u>	<u> </u>	<u>+. 55%</u>
TOTAL COST	+1.05%	+. 50%	+1.55%

- F. Improve Police and Fire Safety Member Formula as follows and establish a 90% cap. Any employees who are eligible for a percentage above 90% on the date the new formula becomes effective, will be allowed to remain under the current formula with no cap. Past liability for this benefit improvement will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97.

Age	Fire Factor	Police Factor	Proposed Factor for Fire & Police
50	2.20%	2.50%	2.50%
51	2.32%	2.54%	2.60%
52	2.44%	2.58%	2.70%
53	2.57%	2.62%	2.80%
54	2.72%	2.66%	2.90%
55+	2.77%	2.70%	2.9999%

Cost of Safety Member Improvements:

<u>FIRE</u>	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .75%	+ .75%	+1.50%
<u>Past Liability</u>	<u>+ .95%</u>		<u>+ .95%</u>
Total	+1.70%	+ .75%	+2.45%

Fire employees will pay one-half of the normal cost by an increase in the employee contribution of .75% effective 7/1/98.

<u>POLICE</u>	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .49%	+ .49%	+ .98%
<u>Past Liability</u>	<u>+ .95%</u>		<u>+ .95%</u>
Total	+1.44%	+ .49%	+1.93%

Police employees will pay one-half of the normal cost by an increase in the employee contribution of .49% effective 7/1/98.

- G. The City agrees to implementation of a *Deferred Retirement Option Plan* (DROP) effective April 1, 1997, on the condition that such a plan is approved by the City Attorney's Office as legal under applicable Federal, State and Local laws and regulations, and that such a plan would not increase cost greater than the savings to the City nor CERS. Employees may participate in this program for up to five (5) years. At the end of three (3) years, the City will evaluate the cost impact of this program. If the cost impact to the City or CERS is greater than the savings, the City agrees to meet and confer to impasse prior to imposing any changes in the DROP Plan. If the City proposes to change the DROP Plan, the 90% cap on CERS would also be re-negotiated. Employees who elect to participate in DROP will cease participation in CERS, and will participate in an SPSP-type plan with a mandatory 3.05% employee contribution matched by 3.05% employer contribution.

Issue No. 3 - EMPLOYER CONTRIBUTION RATES

- A. Employer rates will be calculated using the Projected Unit Credit (PUC) method. For FY96 and FY97, the City will pay the budgeted rates (bifurcated rate) of 7.08% (blended rate) and 7.33% respectively, and increase the rate paid by 0.50% each year until the rate paid reaches the EAN calculated rate. At such time as the PUC and Entry Age Normal (EAN) rates are equal, the System will convert to EAN.

Employer Contribution Rate Stabilization Plan

Period	PUC Rate	City Paid Rate	Difference %	Difference \$
FY96	8.60%	7.08%	1.52%	\$5.33m
FY97	10.87%	7.33%	3.79%	\$13.88m
FY98	12.18%	7.83%	4.35%	\$16.67m
FY99	12.18%	8.33%	3.85%	\$15.40m
FY2000	12.18%	8.83%	3.35%	\$14.00m
FY2001	12.18%	9.33%	2.85%	\$12.45m
FY2002	12.18%	9.83%	2.35%	\$10.72m
FY2003	12.18%	10.33%	1.85%	\$8.82m
FY2004	12.18%	10.83%	1.35%	\$6.73m
FY2005	12.18%	11.33%	.85%	\$4.43m
FY2006	12.18%	11.83%	.35%	\$1.91m
FY2007	12.18%	12.18%	-0-	-0-
FY2008	13.00	13.00%	-0-	-0-
TOTAL				\$110.35*

*\$110.35 million paid from excess earnings includes \$71.31 million in contributions as a result of benefits improvements recommended herein.

- B. The City will pay the agreed-to rates shown above for FY 96 through FY 2007. In the event that the funded ratio of the System falls to a level 10% below the funded ratio calculated at the June 30, 1996 actuarial valuation which will include the impact of the benefit improvements included in this Proposal, the City-paid rate will be increased on July 1 of the year following the date of the actuarial valuation in which the shortfall in funded ratio is calculated. The increase in the City-paid rate will be the amount determined by the actuary necessary to restore a funded ratio no more than the level that is 10% below the funded ratio calculated at the June 30, 1996 actuarial valuation.
- C. If the System's actuary makes changes in actuarial assumptions or methodology which are approved by the Board prior to July 1, 2007, any changes in the employer contribution rate will adjust the PUC rate to be achieved through extended incremental increases shown in paragraph A above. If the phase-in would require an extension past July 1, 2009 in order to achieve the full actuarial PUC rate, the City-paid rate will be adjusted by the amount necessary to achieve full phase-in by that date.

Issue No. 4 - SURPLUS UNDISTRIBUTED EARNINGS AND RESERVES

The System's actuary performs an annual actuarial valuation which shows the present value of accrued liabilities and the value of assets allocated to funding. To the extent that liabilities exceed assets, the System will show an unfunded liability. The System's liabilities will be impacted in the following ways, including those related to the City Manager's proposal for restructuring the System.

NORMAL LIABILITIES - This liability relates to the impact of actuarial gains or losses recognized when actuarial assumptions are compared to the System's actual experience. When experience is better than assumptions, the System shows actuarial gains and liabilities decrease. When experience is worse than assumptions, the System shows actuarial losses and liabilities increase. This will take place regardless of whether or not the restructuring proposal is approved.

NORMAL COST OF INCREASED BENEFITS - When benefits are increased, liability is created representing the prospective value of those benefits. Employee and employer contribution rates are increased for the purpose of paying that cost as it is accrued.

PAST SERVICE LIABILITY OF INCREASED BENEFITS - The proposed restructuring provides for an increase in the formula for calculating benefits. This means that, in the case of a general member, each year of accrued service that had a value of 1.45% of final average salary at age 55, increases in value to 2.00% of final average salary at age 55 upon the effective date of the increase. This increases the cost to the System to pay the benefit, which increases liabilities since no contributions have been received in the past to fund the benefit at this level. This is what is known as past service liability.

The actuary has estimated the amount of past service liability created by the restructuring proposal to be \$76.7 million expressed in 1996 dollars.

CONTRIBUTION SHORTFALL LIABILITY - The restructuring proposal provides that the employer contribution rate will be "ramped up" to the actuarially recommended rate in increments over the next 10 years. This means that the System will be receiving less in contribution dollars over that period, which creates an additional liability.

The actuary has estimated the amount of contribution shortfall liability created by the restructuring proposal to be \$30.0 million expressed in 1996 dollars.

- A. The system has "surplus" undistributed earnings and a balance in the Earnings Stabilization Reserve as follows:

FY ended 6-30-95	\$ 38,813,314
FY ended 6-30-96	85,472,254
Earnings Stabilization Reserve	<u>10,769,620</u>
Total	\$135,055,188

The actuary has estimated increased liabilities associated with the restructuring proposal in the amount of \$106,700,000 (see the discussion segment above). Credit the Employer Contribution Reserve in the amount of \$106,700,000 for the purpose of discharging the restructuring liability. Credit the Employer Contribution Reserve with \$28,356,188 (the remaining balance) for the purpose of reducing the System's normal unfunded liability.

TOTALITY OF THE PROPOSAL

If the necessary contingencies identified to approve this Proposal in its entirety are not affirmatively met by January 1, 1997, then:

- A. Retiree Health Insurance will remain a City provided benefit, rather than CERS;
- B. The CERS benefit improvements listed in Issue No. 2 would not occur;
- C. The employer contribution rates to be paid would be those established by the System's Actuary.

In order to facilitate the accomplishment of this Proposal, it is recommended that the CERS Board direct that the \$106,700,000 identified in Issue No. 4 as the amount necessary to discharge the restructuring liability be set aside in a reserve until January 1, 1997.

SCHEDULE FOR DISTRIBUTION OF EARNINGS
FISCAL YEAR ENDED 6-30-00

UNDISTRIBUTED EARNINGS AT 6-30-00		\$415,934,184	
DISTRIBUTIONS:			
SDMC 24.1502 (a) (1)	EMPLOYER CONTRIBUTION RESERVE	\$ 33,631,231	
SDMC 24.1502 (a) (1)	EMPLOYEE CONTRIBUTION RESERVE	21,119,014	
SDMC 24.1502 (a) (2)	ADMINISTRATIVE BUDGET	17,700,930	
SDMC 24.1502 (a) (3)	GENERAL RESERVE	22,431,567	
SDMC 24.1502 (a) (3)	CREDIT DROP ACCOUNTS AT 8%	2,333,465	
SUBTOTAL		97,216,200	\$ 318,717,984
SDMC 24.1502 (a) (3)	CREDIT 13 TH CHECK RESERVE AT 8%	282,915	
SDMC 24.1502 (a) (3)	CONTINGENCY RESERVE (CITY)	100,000,000	
SDMC 24.1502 (a) (4)	CONTINGENCY RESERVE (UPD)	5,838,008	
SDMC 24.1502 (a) (5)	EMPLOYER CONTRIBUTION RESERVE CITY (HEALTH INSURANCE)	12,771,254	
SDMC 24.1502 (a) (6)	13 th CHECK	3,537,072	
SDMC 24.1502 (a) (7)	CORBETT RETROACTIVE PAYMENT	23,614,741	
SDMC 24.1502 (a) (8)	CREDIT SUPP. COLA RESERVE AT 8%	2,643,834	
SDMC 24.1502 (a) (8)	CREDIT EMPLOYEE CONTRIBUTION RATE RESERVE AT 8%	3,341,244	
SDMC 24.1502 (a) (3)	NPO RESERVE	7,937,000	
SUBTOTAL			159,966,068
SDMC 24.1502 (b)	TO EMPLOYER CONTRIBUTION RESERVE	\$158,751,916	

FILE: W:\EXEC\BDSEC\EARNINGS 00 (3)
UPDATE 08/09/01

ATTACHEMENT TO DISTRIBUTION OF EARNINGS FOR FY 00

BACKGROUND:

The earnings of the System are defined as realized, or cash, earnings. They are comprised of interest and dividends received, net purchase discounts and premiums on fixed income instruments, and net realized gains and losses on the sale of stocks. Distribution of earnings is determined by the Board in priority order established in the Municipal Code. A description of the Municipal Code provisions is shown below and the recommended distribution is shown on the attached schedule.

SDMC 24.1502 (a) (1)	Credit the contribution accounts of the employers (City and UPD) and members of the System (City and UPD) at a rate determined by the Board. Historically, the rate has been the actuarial assumption rate, which is currently 8%.
SDMC 24.1502 (a) (2)	The System's operating budget.
SDMC 24.1502 (a) (3)	"An amount necessary to maintain such reserves as the Board deems appropriate on advice of its investment counselor and/or Actuary;" The Board has created four reserves under this section: the General Reserve; the Reserve for Employee Contributions; and, the NPO Reserve. NPO stands for Net Pension Obligation, which is the actuarial present value of the difference between the employer contribution rate recommended by the Actuary and the rate actually paid by the City. As a part of the annual actuarial valuation, the Actuary recommends the amount of this reserve. The schedule shows the difference between that recommendation and the current reserve balance.
SDMC 24.1502 (a) (4)	Proportional share of earnings to UPD. This represents the UPD's share of earnings used to fund programs or benefits in which they do not participate, such as retiree health insurance.
SDMC 24.1502 (a) (5)	Health Insurance.
SDMC 24.1502 (a) (6)	13th Check.
SDMC 24.1502 (a) (7)	Corbett Retiree Liability
SDMC 24.1502 (a) (8)	Credit the Supplemental COLA Reserve and the Employee Contribution Reserve with earnings at the same rate as the Employee and Employer Contribution Reserves above, currently 8%.
SDMC 24.1502 (b)	The remaining balance is credited to the Employer Contribution Reserve "... for the sole and exclusive purpose of reducing Retirement System liability."

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Exhibit 8

ARTICLE IX

(All executive authority, power, and responsibilities conferred upon the City Manager in this Article are transferred to the Mayor during the operative period of Charter Article XV. See Charter § 260(b).)

THE RETIREMENT OF EMPLOYEES

Section 141: City Employees' Retirement System

The Council of the City is hereby authorized and empowered by ordinance to establish a retirement system and to provide for death benefits for compensated public officers and employees, other than those policemen and firemen who were members of a pension system on June 30, 1946. No employee shall be retired before reaching the age of sixty-two years and before completing ten years of service for which payment has been made, except such employees may be given the option to retire at the age of fifty-five years after twenty years of service for which payment has been made with a proportionately reduced allowance. Policemen, firemen and full time lifeguards, however, who have had ten years of service for which payment has been made may be retired at the age of fifty-five years, except such policemen, firemen and full time lifeguards may be given the option to retire at the age of fifty years after twenty years of service for which payment has been made with a proportionately reduced allowance.

The Council may also in said ordinance provide:

- (a) For the retirement with benefits of an employee who has become physically or mentally disabled by reason of bodily injuries received in or by reason of sickness caused by the discharge of duty or as a result thereof to such an extent as to render necessary retirement from active service.
- (b) Death benefits for dependents of employees who are killed in the line of duty or who die as a result of injuries suffered in the performance of duty.
- (c) Retirement with benefits of an employee who, after ten years of service for which payment has been made, has become disabled to the extent of not being capable of performing assigned duties, or who is separated from City service without fault or delinquency.
- (d) For health insurance benefits for retired employees.

(Editor's note: Supplement No. 655)
(Amendment voted 03-13-1945; effective 04-09-1945.)
(Amendment voted 04-19-1949; effective 05-20-1949.)
(Amendment voted 03-13-1951; effective 03-26-1951.)
(Amendment voted 06-08-1954; effective 01-10-1955.)
(Amendment voted 11-06-1990; effective 02-19-1991.)
(Amendment voted 11-08-1994; effective 01-30-1995.)
(Amendment voted 11-05-1996; effective 02-10-1997.)

Section 142: Employment of Actuary

The Board of Administration hereinafter provided, shall secure from a competent actuary a report of the cost of establishing a general retirement system for all employees of The City of San Diego. Said actuary shall be one who has had actual experience in the establishing of retirement systems for public employees, and his position shall be considered one requiring expert or technical training within the meaning of subdivision (k) of Section 118 of Article VIII of this Charter.

Section 143: Contributions

The retirement system herein provided for shall be conducted on the contributory plan, the City contributing jointly with the employees affected thereunder. Employees shall contribute according to the actuarial tables adopted by the Board of Administration for normal retirement allowances, except that employees shall, with the approval of the Board, have the option to contribute more than required for normal allowances, and thereby be entitled to receive the proportionate amount of increased allowances paid for by such additional contributions. The City shall contribute annually an amount substantially equal to that required of the employees for normal retirement allowances, as certified by the actuary, but shall not be required to contribute in excess of that amount, except in the case of financial liabilities accruing under any new retirement plan or revised retirement plan because of past service of the employees. The mortality, service, experience or other table calculated by the actuary and the valuation determined by him and approved by the board shall be conclusive and final, and any retirement system established under this article shall be based thereon. Funding obligations of the City shall be determined by the Board on an annual basis and in no circumstances, except for court approved settlement agreements, shall the City and the Board enter into multi-year contracts or agreements delaying full funding of City obligations to the system. When setting and establishing amortization schedules for the funding of the unfunded accrued actuarial liability, the Board shall place the cost of the past service liability associated with a new retirement benefit increase on no greater than a fixed, straight-line, five year amortization schedule. Effective July 1, 2008, the Board shall place the cost associated with net accumulated actuarial losses on no greater than a fifteen year amortization

schedule and the Board shall place the benefit associated with net accumulated actuarial gains on no less than a five year amortization schedule. Notwithstanding the above, the Board shall retain plenary authority and fiduciary responsibility for investment of moneys and administration of the system as provided for in article XVI, section 17 of the California Constitution. The setting and establishing of amortization schedules by the Board pursuant this section is not intended and shall not be interpreted to preclude the City from issuing pension obligation bonds or other similar instruments containing repayment terms exceeding fifteen years.

(Amendment voted 03-13-1945; effective 04-09-1945.)

(Amendment voted 06-08-1954; effective 01-10-1955.)

(Amendment voted on 11-2-2004; effective on 04-01-2005)

Section 143.1: Approval of Retirement System Benefit

- (a) No ordinance amending the retirement system which affects the benefits of any employee under such retirement system shall be adopted without the approval of a majority vote of the members of said system. No ordinance amending the retirement system which increases the benefits of any employee, legislative officer or elected official under such retirement system, with the exception of Cost of Living Adjustments, shall be adopted without the approval of a majority of those qualified electors voting on the matter. No ordinance amending the retirement system which affects the vested defined benefits of any retiree of such retirement system shall be adopted without the approval of a majority vote of the affected retirees of said retirement system.
- (b) Prior to any proposed amendment of the retirement system which increases benefits of any employee, legislative officer or elected official under such retirement system being placed on the ballot, the retirement system shall prepare an actuarial study of the cost due to the benefit changes proposed based upon the amortization schedules established by Charter Section 143. A summary of the actuarial study shall be published in the ballot pamphlet.
- (c) Nothing in subsection (a) of this section shall prevent City officials from negotiating tentative agreements with employee organizations incorporating benefit changes to the extent permitted by state law, provided, however that no amendment of the retirement system which increases benefits, with the exception of the Cost of Living Adjustments, of any employee, legislative officer or elected official under such retirement system, shall become binding or effective until approved by a majority of those qualified electors voting on the matter, and shall not have any force or effect if rejected by said voters. The City Council shall have no authority to enter into final or binding agreements regarding retirement system benefit increases until and unless those increases to retirement system

Exhibit 9

CALIFORNIA CONSTITUTION
ARTICLE 16 PUBLIC FINANCE

SECTION 1. The Legislature shall not, in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars (\$300,000), except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within 50 years of the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged, and such law may make provision for a sinking fund to pay the principal of such debt or liability to commence at a time after the incurring of such debt or liability of not more than a period of one-fourth of the time of maturity of such debt or liability; but no such law shall take effect unless it has been passed by a two-thirds vote of all the members elected to each house of the Legislature and until, at a general election or at a direct primary, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated or to the payment of the debt thereby created. Full publicity as to matters to be voted upon by the people is afforded by the setting out of the complete text of the proposed laws, together with the arguments for and against them, in the ballot pamphlet mailed to each elector preceding the election at which they are submitted, and the only requirement for publication of such law shall be that it be set out at length in ballot pamphlets which the Secretary of State shall cause to be printed. The Legislature may, at any time after the approval of such law by the people, reduce the amount of the indebtedness authorized by the law to an amount not less than the amount contracted at the time of the reduction, or it may repeal the law if no debt shall have been contracted in pursuance thereof.

Notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with the State Allocation Board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending or coming before such board for the allocation and apportionment of funds to school districts for school construction purposes or purposes related thereto.

Notwithstanding any other provision of this constitution, or of any bond act to the contrary, if any general obligation bonds of the State heretofore or hereafter authorized by vote of the people have been offered for sale and not sold, the Legislature may raise the maximum rate of interest payable on all general obligation bonds authorized but not sold, whether or not such bonds have been offered for sale, by a statute passed by a two-thirds vote of all members elected to each house thereof.

The provisions of Senate Bill No. 763 of the 1969 Regular Session, which authorize an increase of the state general obligation bond maximum interest rate from 5 percent to an amount not in excess of 7 percent and eliminate the maximum rate of interest payable on notes given in anticipation of the sale of such bonds, are hereby ratified.

CALIFORNIA CONSTITUTION
ARTICLE 16 PUBLIC FINANCE

SEC. 1.3. (a) For the purposes of Section 1, a "single object or work," for which the Legislature may create a debt or liability in excess of three hundred thousand dollars (\$300,000) subject to the requirements set forth in Section 1, includes the funding of an accumulated state budget deficit to the extent, and in the amount, that funding is authorized in a measure submitted to the voters at the March 2, 2004, statewide primary election.

(b) As used in subdivision (a), "accumulated state budget deficit" means the aggregate of both of the following, as certified by the Director of Finance:

(1) The estimated negative balance of the Special Fund for Economic Uncertainties arising on or before June 30, 2004, not including the effect of the estimated amount of net proceeds of any bonds issued or to be issued pursuant to the California Fiscal Recovery Financing Act (Title 17 (commencing with Section 99000) of the Government Code) and any bonds issued or to be issued pursuant to the measure submitted to the voters at the March 2, 2004, statewide primary election as described in subdivision (a).

(2) Other General Fund obligations incurred by the State prior to June 30, 2004, to the extent not included in that negative balance.

(c) Subsequent to the issuance of any state bonds described in subdivision (a), the State may not obtain moneys to fund a year-end state budget deficit, as may be defined by statute, pursuant to any of the following: (1) indebtedness incurred pursuant to Section 1 of this article, (2) a debt obligation under which funds to repay that obligation are derived solely from a designated source of revenue, or (3) a bond or similar instrument for the borrowing of moneys for which there is no legal obligation of repayment. This subdivision does not apply to funding obtained through a short-term obligation incurred in anticipation of the receipt of tax proceeds or other revenues that may be applied to the payment of that obligation, for the purposes and not exceeding the amounts of existing appropriations to which the resulting proceeds are to be applied. For purposes of this subdivision, "year-end state budget deficit" does not include an obligation within the accumulated state budget deficit as defined by subdivision (b).

CALIFORNIA CONSTITUTION
ARTICLE 16 PUBLIC FINANCE

SEC. 1.5. The Legislature may create and establish a "General Obligation Bond Proceeds Fund" in the State Treasury, and may provide for the proceeds of the sale of general obligation bonds of the State heretofore or hereafter issued, including any sums paid as accrued interest thereon, under any or all acts authorizing the issuance of such bonds, to be paid into or transferred to, as the case may be, the "General Obligation Bond Proceeds Fund." Accounts shall be maintained in the "General Obligation Bond Proceeds Fund" of all moneys deposited in the State Treasury to the credit of that fund and the proceeds of each bond issue shall be maintained as a separate and distinct account and shall be paid out only in accordance with the law authorizing the issuance of the particular bonds from which the proceeds were derived. The Legislature may

abolish, subject to the conditions of this section, any fund in the State Treasury heretofore or hereafter created by any act for the purpose of having deposited therein the proceeds from the issuance of bonds if such proceeds are transferred to or paid into the "General Obligation Bond Proceeds Fund" pursuant to the authority granted in this section; provided, however, that nothing in this section shall prevent the Legislature from re-establishing any bond proceeds fund so abolished and transferring back to its credit all proceeds in the "General Obligation Bond Proceeds Fund" which constitute the proceeds of the particular bond fund being re-established.

CALIFORNIA CONSTITUTION
ARTICLE 16 PUBLIC FINANCE

SEC. 2. (a) No amendment to this Constitution which provides for the preparation, issuance and sale of bonds of the State of California shall hereafter be submitted to the electors, nor shall any such amendment to the Constitution hereafter submitted to or approved by the electors become effective for any purpose.

Each measure providing for the preparation, issuance and sale of bonds of the State of California shall hereafter be submitted to the electors in the form of a bond act or statute.

(b) The provisions of this Constitution enumerated in subdivision (c) of this section are repealed and such provisions are continued as statutes which have been approved, adopted, legalized, ratified, validated, and made fully and completely effective, by means of the adoption by the electorate of a ratifying constitutional amendment, except that the Legislature, in addition to whatever powers it possessed under such provisions, may amend or repeal such provisions when the bonds issued thereunder have been fully retired and when no rights thereunder will be damaged.

(c) The enumerated provisions of this Constitution are: Article XVI, Sections 2, 3, 4, 41/2, 5, 6, 8, 81/2, 15, 16, 16.5, 17, 18, 19, 19.5, 20 and 21.

CALIFORNIA CONSTITUTION
ARTICLE 16 PUBLIC FINANCE

SEC. 3. No money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made thereto by the State, except that notwithstanding anything contained in this or any other section of the Constitution:

(1) Whenever federal funds are made available for the construction of hospital facilities by public agencies and nonprofit corporations organized to construct and maintain such facilities, nothing in this Constitution shall prevent the Legislature from making state money available for that purpose, or from authorizing the use of such money for the construction of hospital facilities by nonprofit corporations organized to construct and maintain such facilities.

(2) The Legislature shall have the power to grant aid to the institutions conducted for the support and maintenance of minor

orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances--such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions.

(3) The Legislature shall have the power to grant aid to needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, and no person concerned with the administration of aid to needy blind persons shall dictate how any applicant or recipient shall expend such aid granted him, and all money paid to a recipient of such aid shall be intended to help him meet his individual needs and is not for the benefit of any other person, and such aid when granted shall not be construed as income to any person other than the blind recipient of such aid, and the State Department of Social Welfare shall take all necessary action to enforce the provisions relating to aid to needy blind persons as heretofore stated.

(4) The Legislature shall have power to grant aid to needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State.

(5) The State shall have at any time the right to inquire into the management of such institutions.

(6) Whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances, or needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, or needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or in part by any political subdivision of the State; such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church, or other control.

An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the Legislature.

CALIFORNIA CONSTITUTION ARTICLE 16 PUBLIC FINANCE

SEC. 4. The Legislature shall have the power to insure or guarantee loans made by private or public lenders to nonprofit corporations and public agencies, the proceeds of which are to be used for the construction, expansion, enlargement, improvement, renovation or repair of any public or nonprofit hospital, hospital facility, or extended care facility, facility for the treatment of mental illness, or all of them, including any outpatient facility and any other facility useful and convenient in the operation of the hospital and any original equipment for any such hospital or facility, or both.

No provision of this Constitution, including but not limited to, Section 1 of Article XVI and Section 14 of Article XI, shall be construed as a limitation upon the authority granted to the Legislature by this section.

CALIFORNIA CONSTITUTION
ARTICLE 16 PUBLIC FINANCE

SEC. 5. Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any city, city and county, town, or other municipal corporation for any religious creed, church, or sectarian purpose whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI.

CALIFORNIA CONSTITUTION
ARTICLE 16 PUBLIC FINANCE

SEC. 6. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 3 of Article XVI; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country; provided, further, that irrigation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; and

Provided, further, that this section shall not prohibit any county, city and county, city, township, or other political corporation or subdivision of the State from joining with other such agencies in providing for the payment of workers' compensation, unemployment compensation, tort liability, or public liability losses incurred by such agencies, by entry into an insurance pooling arrangement under a joint exercise of powers agreement, or by membership in such publicly-owned nonprofit corporation or other public agency as may be authorized by the Legislature; and

Provided, further, that nothing contained in this Constitution shall prohibit the use of state money or credit, in aiding veterans who served in the military or naval service of the United States during the time of war, in the acquisition of, or payments for, (1) farms or homes, or in projects of land settlement or in the development of such farms or homes or land settlement projects for the benefit of such veterans, or (2) any business, land or any interest therein, buildings, supplies, equipment, machinery, or tools, to be used by the veteran in pursuing a gainful occupation; and

Provided, further, that nothing contained in this Constitution shall prohibit the State, or any county, city and county, city, township, or other political corporation or subdivision of the State from providing aid or assistance to persons, if found to be in the public interest, for the purpose of clearing debris, natural materials, and wreckage from privately owned lands and waters deposited thereon or therein during a period of a major disaster or emergency, in either case declared by the President. In such case, the public entity shall be indemnified by the recipient from the award of any claim against the public entity arising from the rendering of such aid or assistance. Such aid or assistance must be eligible for federal reimbursement for the cost thereof.

And provided, still further, that notwithstanding the restrictions contained in this Constitution, the treasurer of any city, county, or city and county shall have power and the duty to make such temporary transfers from the funds in custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in custody and are paid out solely through the treasurer's office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed 85 percent of the anticipated revenues accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the revenues accruing to such political subdivision before any other obligation of such political subdivision is met from such revenue.

CALIFORNIA CONSTITUTION
ARTICLE 16 PUBLIC FINANCE

SEC. 7. Money may be drawn from the Treasury only through an appropriation made by law and upon a Controller's duly drawn warrant.

CALIFORNIA CONSTITUTION
ARTICLE 16 PUBLIC FINANCE

SEC. 8. (a) From all state revenues there shall first be set apart the moneys to be applied by the State for support of the public school system and public institutions of higher education.

(b) Commencing with the 1990-91 fiscal year, the moneys to be applied by the State for the support of school districts and community college districts shall be not less than the greater of the following amounts:

(1) The amount which, as a percentage of General Fund revenues which may be appropriated pursuant to Article XIII B, equals the percentage of General Fund revenues appropriated for school districts and community college districts, respectively, in fiscal year 1986-87.

(2) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall not be less than the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIII B. This paragraph shall be operative only in a fiscal year in which the percentage growth in California per capita personal income is less than or equal to the percentage growth in per capita General Fund revenues plus one half of one percent.

(3) (A) The amount required to ensure that the total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes shall equal the total amount from these sources in the prior fiscal year, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment and adjusted for the change in per capita General Fund revenues.

(B) In addition, an amount equal to one-half of one percent times the prior year total allocations to school districts and community colleges from General Fund proceeds of taxes appropriated pursuant to Article XIII B and allocated local proceeds of taxes, excluding any revenues allocated pursuant to subdivision (a) of Section 8.5, adjusted for changes in enrollment.

(C) This paragraph (3) shall be operative only in a fiscal year in which the percentage growth in California per capita personal income in a fiscal year is greater than the percentage growth in per capita General Fund revenues plus one half of one percent.

(c) In any fiscal year, if the amount computed pursuant to paragraph (1) of subdivision (b) exceeds the amount computed pursuant to paragraph (2) of subdivision (b) by a difference that exceeds one and one-half percent of General Fund revenues, the amount in excess of one and one-half percent of General Fund revenues shall not be considered allocations to school districts and community colleges for purposes of computing the amount of state aid pursuant to paragraph (2) or 3 of subdivision (b) in the subsequent fiscal year.

(d) In any fiscal year in which school districts and community college districts are allocated funding pursuant to paragraph (3) of subdivision (b) or pursuant to subdivision (h), they shall be entitled to a maintenance factor, equal to the difference between (1)

the amount of General Fund moneys which would have been appropriated pursuant to paragraph (2) of subdivision (b) if that paragraph had been operative or the amount of General Fund moneys which would have been appropriated pursuant to subdivision (b) had subdivision (b) not been suspended, and (2) the amount of General Fund moneys actually appropriated to school districts and community college districts in that fiscal year.

(e) The maintenance factor for school districts and community college districts determined pursuant to subdivision (d) shall be adjusted annually for changes in enrollment, and adjusted for the change in the cost of living pursuant to paragraph (1) of subdivision (e) of Section 8 of Article XIIIB, until it has been allocated in full. The maintenance factor shall be allocated in a manner determined by the Legislature in each fiscal year in which the percentage growth in per capita General Fund revenues exceeds the percentage growth in California per capita personal income. The maintenance factor shall be reduced each year by the amount allocated by the Legislature in that fiscal year. The minimum maintenance factor amount to be allocated in a fiscal year shall be equal to the product of General Fund revenues from proceeds of taxes and one-half of the difference between the percentage growth in per capita General Fund revenues from proceeds of taxes and in California per capita personal income, not to exceed the total dollar amount of the maintenance factor.

(f) For purposes of this section, "changes in enrollment" shall be measured by the percentage change in average daily attendance. However, in any fiscal year, there shall be no adjustment for decreases in enrollment between the prior fiscal year and the current fiscal year unless there have been decreases in enrollment between the second prior fiscal year and the prior fiscal year and between the third prior fiscal year and the second prior fiscal year.

(h) Subparagraph (B) of paragraph (3) of subdivision (b) may be suspended for one year only when made part of or included within any bill enacted pursuant to Section 12 of Article IV. All other provisions of subdivision (b) may be suspended for one year by the enactment of an urgency statute pursuant to Section 8 of Article IV, provided that the urgency statute may not be made part of or included within any bill enacted pursuant to Section 12 of Article IV.

CALIFORNIA CONSTITUTION
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SEC. 8.5. (a) In addition to the amount required to be applied for the support of school districts and community college districts pursuant to Section 8, the Controller shall during each fiscal year transfer and allocate all revenues available pursuant to paragraph 1 of subdivision (a) of Section 2 of Article XIIIB to that portion of the State School Fund restricted for elementary and high school purposes, and to that portion of the State School Fund restricted for community college purposes, respectively, in proportion to the enrollment in school districts and community college districts respectively.

(1) With respect to funds allocated to that portion of the State School Fund restricted for elementary and high school purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Superintendent of Public Instruction mutually determine that current

annual expenditures per student equal or exceed the average annual expenditure per student of the 10 states with the highest annual expenditures per student for elementary and high schools, and that average class size equals or is less than the average class size of the 10 states with the lowest class size for elementary and high schools.

(2) With respect to funds allocated to that portion of the State School Fund restricted for community college purposes, no transfer or allocation of funds pursuant to this section shall be required at any time that the Director of Finance and the Chancellor of the California Community Colleges mutually determine that current annual expenditures per student for community colleges in this State equal or exceed the average annual expenditure per student of the 10 states with the highest annual expenditures per student for community colleges.

(b) Notwithstanding the provisions of Article XIII B, funds allocated pursuant to this section shall not constitute appropriations subject to limitation.

(c) From any funds transferred to the State School Fund pursuant to subdivision (a), the Controller shall each year allocate to each school district and community college district an equal amount per enrollment in school districts from the amount in that portion of the State School Fund restricted for elementary and high school purposes and an equal amount per enrollment in community college districts from that portion of the State School Fund restricted for community college purposes.

(d) All revenues allocated pursuant to subdivision (a) shall be expended solely for the purposes of instructional improvement and accountability as required by law.

(e) Any school district maintaining an elementary or secondary school shall develop and cause to be prepared an annual audit accounting for such funds and shall adopt a School Accountability Report Card for each school.

CALIFORNIA CONSTITUTION
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SEC. 9. Money collected under any state law relating to the protection or propagation of fish and game shall be used for activities relating thereto.

CALIFORNIA CONSTITUTION
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SEC. 10. Whenever the United States government or any officer or agency thereof shall provide pensions or other aid for the aged, co-operation by the State therewith and therein is hereby authorized in such manner and to such extent as may be provided by law.

The money expended by any county, city and county, municipality, district or other political subdivision of this State made available under the provisions of this section shall not be considered as a part of the base for determining the maximum expenditure for any given year permissible under Section 20 of Article XI of this Constitution independent of the vote of the electors or authorization

by the State Board of Equalization.

CALIFORNIA CONSTITUTION
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SEC. 11. The Legislature has plenary power to provide for the administration of any constitutional provisions or laws heretofore or hereafter enacted concerning the administration of relief, and to that end may modify, transfer, or enlarge the powers vested in any state agency or officer concerned with the administration of relief or laws appertaining thereto. The Legislature, or the people by initiative, shall have power to amend, alter, or repeal any law relating to the relief of hardship and destitution, whether such hardship and destitution results from unemployment or from other causes, or to provide for the administration of the relief of hardship and destitution, whether resulting from unemployment or from other causes, either directly by the State or through the counties of the State, and to grant such aid to the counties therefor, or make such provision for reimbursement of the counties by the State, as the Legislature deems proper.

CALIFORNIA CONSTITUTION
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SEC. 13. Notwithstanding any other provision of this Constitution, the Legislature shall have power to release, rescind, cancel, or otherwise nullify in whole or in part any encumbrance on property, personal obligation, or other form of security heretofore or hereafter exacted or imposed by the Legislature to secure the repayment to, or reimbursement of, the State, and the counties or other agencies of the state government, of aid lawfully granted to and received by aged persons.

CALIFORNIA CONSTITUTION
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SEC. 14. The Legislature may provide for the issuance of revenue bonds to finance the acquisition, construction, and installation of environmental pollution control facilities, including the acquisition of all technological facilities necessary or convenient for pollution control, and for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations; provided, that such revenue bonds shall not be secured by the taxing power of the State; and provided, further, that the Legislature may, by resolution adopted by either house, prohibit or limit any proposed issuance of such revenue bonds. No provision of this Constitution, including, but not limited to, Section 25 of Article XIII and Sections 1 and 2 of Article XVI, shall be construed as a limitation upon the authority granted to the Legislature pursuant to this section. Nothing herein contained shall authorize any public agency to operate any industrial or commercial enterprise.

CALIFORNIA CONSTITUTION
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SEC. 14.5. The Legislature may provide for the issuance of revenue bonds to finance the acquisition, construction, and installation of facilities utilizing cogeneration technology, solar power, biomass, or any other alternative source the Legislature may deem appropriate, including the acquisition of all technological facilities necessary or convenient for the use of alternative sources, and for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations; provided, that such revenue bonds shall not be secured by the taxing power of the State; and provided, further, that the Legislature may, by resolution adopted by both houses, prohibit or limit any proposed issuance of such revenue bonds. No provision of this Constitution, including, but not limited to, Sections 1, 2, and 6, of this article, shall be construed as a limitation upon the authority granted to the Legislature pursuant to this section. Nothing contained herein shall authorize any public agency to operate any industrial or commercial enterprise.

CALIFORNIA CONSTITUTION
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SEC. 15. A public body authorized to issue securities to provide public parking facilities and any other public body whose territorial area includes such facilities are authorized to make revenues from street parking meters available as additional security.

CALIFORNIA CONSTITUTION
ARTICLE 16 PUBLIC FINANCE

SEC. 16. All property in a redevelopment project established under the Community Redevelopment Law as now existing or hereafter amended, except publicly owned property not subject to taxation by reason of that ownership, shall be taxed in proportion to its value as provided in Section 1 of this article, and those taxes (the word "taxes" as used herein includes, but is not limited to, all levies on an ad valorem basis upon land or real property) shall be levied and collected as other taxes are levied and collected by the respective taxing agencies.

The Legislature may provide that any redevelopment plan may contain a provision that the taxes, if any, so levied upon the taxable property in a redevelopment project each year by or for the benefit of the State of California, any city, county, city and county, district, or other public corporation (hereinafter sometimes called "taxing agencies") after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of those taxing agencies upon the total sum of the assessed value of the taxable

property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of that property by the taxing agency, last equalized prior to the effective date of the ordinance, shall be allocated to, and when collected shall be paid into, the funds of the respective taxing agencies as taxes by or for those taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of the ordinance but to which that territory has been annexed or otherwise included after the ordinance's effective date, the assessment roll of the county last equalized on the effective date of that ordinance shall be used in determining the assessed valuation of the taxable property in the project on that effective date); and

(b) Except as provided in subdivision (c), that portion of the levied taxes each year in excess of that amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed or otherwise) incurred by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in the project as shown by the last equalized assessment roll referred to in subdivision (a), all of the taxes levied and collected upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies. When the loans, advances, and indebtedness, if any, and interest thereon, have been paid, then all moneys thereafter received from taxes upon the taxable property in the redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

(c) That portion of the taxes identified in subdivision (b) which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that taxing agency. This paragraph shall only apply to taxes levied to repay bonded indebtedness approved by the voters of the taxing agency on or after January 1, 1989.

The Legislature may also provide that in any redevelopment plan or in the proceedings for the advance of moneys, or making of loans, or the incurring of any indebtedness (whether funded, refunded, assumed, or otherwise) by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project, the portion of taxes identified in subdivision (b), exclusive of that portion identified in subdivision (c), may be irrevocably pledged for the payment of the principal of and interest on those loans, advances, or indebtedness.

It is intended by this section to empower any redevelopment agency, city, county, or city and county under any law authorized by this section to exercise the provisions hereof separately or in combination with powers granted by the same or any other law relative to redevelopment agencies. This section shall not affect any other law or laws relating to the same or a similar subject but is intended to authorize an alternative method of procedure governing the subject to which it refers.

The Legislature shall enact those laws as may be necessary to enforce the provisions of this section.

CALIFORNIA CONSTITUTION
ARTICLE 16 PUBLIC FINANCE

SEC. 17. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation, except that the State and each political subdivision, district, municipality, and public agency thereof is hereby authorized to acquire and hold shares of the capital stock of any mutual water company or corporation when the stock is so acquired or held for the purpose of furnishing a supply of water for public, municipal or governmental purposes; and the holding of the stock shall entitle the holder thereof to all of the rights, powers and privileges, and shall subject the holder to the obligations and liabilities conferred or imposed by law upon other holders of stock in the mutual water company or corporation in which the stock is so held.

Notwithstanding any other provisions of law or this Constitution to the contrary, the retirement board of a public pension or retirement system shall have plenary authority and fiduciary responsibility for investment of moneys and administration of the system, subject to all of the following:

(a) The retirement board of a public pension or retirement system shall have the sole and exclusive fiduciary responsibility over the assets of the public pension or retirement system. The retirement board shall also have sole and exclusive responsibility to administer the system in a manner that will assure prompt delivery of benefits and related services to the participants and their beneficiaries. The assets of a public pension or retirement system are trust funds and shall be held for the exclusive purposes of providing benefits to participants in the pension or retirement system and their beneficiaries and defraying reasonable expenses of administering the system.

(b) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purposes of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. A retirement board's duty to its participants and their beneficiaries shall take precedence over any other duty.

(c) The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

(d) The members of the retirement board of a public pension or retirement system shall diversify the investments of the system so as to minimize the risk of loss and to maximize the rate of return, unless under the circumstances it is clearly not prudent to do so.

(e) The retirement board of a public pension or retirement system, consistent with the exclusive fiduciary responsibilities vested in it, shall have the sole and exclusive power to provide for actuarial services in order to assure the competency of the assets of the public pension or retirement system.

(f) With regard to the retirement board of a public pension or

retirement system which includes in its composition elected employee members, the number, terms, and method of selection or removal of members of the retirement board which were required by law or otherwise in effect on July 1, 1991, shall not be changed, amended, or modified by the Legislature unless the change, amendment, or modification enacted by the Legislature is ratified by a majority vote of the electors of the jurisdiction in which the participants of the system are or were, prior to retirement, employed.

(g) The Legislature may by statute continue to prohibit certain investments by a retirement board where it is in the public interest to do so, and provided that the prohibition satisfies the standards of fiduciary care and loyalty required of a retirement board pursuant to this section.

(h) As used in this section, the term "retirement board" shall mean the board of administration, board of trustees, board of directors, or other governing body or board of a public employees' pension or retirement system; provided, however, that the term "retirement board" shall not be interpreted to mean or include a governing body or board created after July 1, 1991 which does not administer pension or retirement benefits, or the elected legislative body of a jurisdiction which employs participants in a public employees' pension or retirement system.

CALIFORNIA CONSTITUTION
ARTICLE 16 PUBLIC FINANCE

SEC. 18. (a) No county, city, town, township, board of education, or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the voters of the public entity voting at an election to be held for that purpose, except that with respect to any such public entity which is authorized to incur indebtedness for public school purposes, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the purpose of repairing, reconstructing or replacing public school buildings determined, in the manner prescribed by law, to be structurally unsafe for school use, shall be adopted upon the approval of a majority of the voters of the public entity voting on the proposition at such election; nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and to provide for a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the indebtedness.

(b) Notwithstanding subdivision (a), on or after the effective date of the measure adding this subdivision, in the case of any school district, community college district, or county office of education, any proposition for the incurrence of indebtedness in the form of general obligation bonds for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, shall be adopted upon the approval of 55 percent of the voters of the district or county, as appropriate, voting on the proposition at an election. This subdivision shall apply only to a proposition for the incurrence of indebtedness in the form of general obligation bonds

for the purposes specified in this subdivision if the proposition meets all of the accountability requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A.

(c) When two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when two-thirds or a majority or 55 percent of the voters, as the case may be, voting on any one of those propositions, vote in favor thereof, the proposition shall be deemed adopted.

CALIFORNIA CONSTITUTION
ARTICLE 16 PUBLIC FINANCE

SEC. 19. All proceedings undertaken by any chartered city, or by any chartered county or by any chartered city and county for the construction of any public improvement, or the acquisition of any property for public use, or both, where the cost thereof is to be paid in whole or in part by special assessment or other special assessment taxes upon property, whether the special assessment will be specific or a special assessment tax upon property wholly or partially according to the assessed value of such property, shall be undertaken only in accordance with the provisions of law governing: (a) limitations of costs of such proceedings or assessments for such proceedings, or both, in relation to the value of any property assessed therefor; (b) determination of a basis for the valuation of any such property; (c) payment of the cost in excess of such limitations; (d) avoidance of such limitations; (e) postponement or abandonment, or both, of such proceedings in whole or in part upon majority protest, and particularly in accordance with such provisions as contained in Sections 10, 11 and 13a of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 or any amendments, codification, reenactment or restatement thereof.

Notwithstanding any provisions for debt limitation or majority protest as in this section provided, if, after the giving of such reasonable notice by publication and posting and the holding of such public hearing as the legislative body of any such chartered county, chartered city or chartered city and county shall have prescribed, such legislative body by no less than a four-fifths vote of all members thereof, finds and determines that the public convenience and necessity require such improvements or acquisitions, such debt limitation and majority protest provisions shall not apply.

Nothing contained in this section shall require the legislative body of any such city, county, or city and county to prepare or to cause to be prepared, hear, notice for hearing or report the hearing of any report as to any such proposed construction or acquisition or both.

CALIFORNIA CONSTITUTION
ARTICLE 16 PUBLIC FINANCE

SEC. 20. (a) The Budget Stabilization Account is hereby created in the General Fund.

(b) In each fiscal year as specified in paragraphs (1) to (3), inclusive, the Controller shall transfer from the General Fund to the Budget Stabilization Account the following amounts:

(1) No later than September 30, 2006, a sum equal to 1 percent of

the estimated amount of General Fund revenues for the 2006-07 fiscal year.

(2) No later than September 30, 2007, a sum equal to 2 percent of the estimated amount of General Fund revenues for the 2007-08 fiscal year.

(3) No later than September 30, 2008, and annually thereafter, a sum equal to 3 percent of the estimated amount of General Fund revenues for the current fiscal year.

(c) The transfer of moneys shall not be required by subdivision (b) in any fiscal year to the extent that the resulting balance in the account would exceed 5 percent of the General Fund revenues estimate set forth in the budget bill for that fiscal year, as enacted, or eight billion dollars (\$8,000,000,000), whichever is greater. The Legislature may, by statute, direct the Controller, for one or more fiscal years, to transfer into the account amounts in excess of the levels prescribed by this subdivision.

(d) Subject to any restriction imposed by this section, funds transferred to the Budget Stabilization Account shall be deemed to be General Fund revenues for all purposes of this Constitution.

(e) The transfer of moneys from the General Fund to the Budget Stabilization Account may be suspended or reduced for a fiscal year as specified by an executive order issued by the Governor no later than June 1 of the preceding fiscal year.

(f) (1) Of the moneys transferred to the account in each fiscal year, 50 percent, up to the aggregate amount of five billion dollars (\$5,000,000,000) for all fiscal years, shall be deposited in the Deficit Recovery Bond Retirement Sinking Fund Subaccount, which is hereby created in the account for the purpose of retiring deficit recovery bonds authorized and issued as described in Section 1.3, in addition to any other payments provided for by law for the purpose of retiring those bonds. The moneys in the sinking fund subaccount are continuously appropriated to the Treasurer to be expended for that purpose in the amounts, at the times, and in the manner deemed appropriate by the Treasurer. Any funds remaining in the sinking fund subaccount after all of the deficit recovery bonds are retired shall be transferred to the account, and may be transferred to the General Fund pursuant to paragraph (2).

(2) All other funds transferred to the account in a fiscal year shall not be deposited in the sinking fund subaccount and may, by statute, be transferred to the General Fund.

Exhibit 10

construction manager at risk contracts, and may set an amount below which the City Manager may award such contracts.

(Addition voted 3-2-2004; effective 07-15-2004)

Section 95: Preference in Accepting Bids

(Amendment voted 04-22-1941; effective 05-08-1941.)

(Repeal voted 09-21-1965; effective 02-10-1966.)

Section 96: Progressive Payments

(Amendment voted 03-23-1937; effective 04-14-1937.)

(Repeal voted 09-17-1963; effective 02-11-1964.)

Section 97: Collusion in Bidding

If at any time it shall be found that any party or parties to whom a contract has been awarded has, in presenting any bid or bids, been guilty of collusion with any party or parties in the submission of any bid or for the purpose of preventing any other bid being made, then the contracts so awarded may be declared null and void by the Council and the Council shall thereupon re-advertise for new bids for said work or the incomplete portion thereof. The Council shall debar from future bidding all persons or firms found to be in violation of this Section, or any future firm in which such person is financially interested.

Section 98: Alteration in Contracts

Whenever it becomes necessary in the opinion of the City Manager to make alterations in any contract entered into by the City, such alterations shall be made only when authorized by the Council upon written recommendation of the Manager, whenever the cost of such alterations increases the amount of the contract by more than the amount authorized by ordinance passed by the Council. No such alterations, the cost which exceeds the amount authorized by ordinance, shall be valid unless the new price to be paid for any supplies, materials, or work under the altered contract shall have been agreed upon in writing and signed by the contractor and the Manager prior to such authorization by the Council. All other alterations shall be made by agreement in writing between the contractor and the Manager.

(Amendment voted 06-07-1966; effective 06-29-1966.)

(Amendment voted 11-04-1975; effective 12-01-1975.)

Section 99: Continuing Contracts

The City shall not incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year unless the qualified electors of the City, voting at an election to be held for that purpose, have indicated their

assent as then required by the Constitution of the State of California, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also provision to constitute a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed forty years from the time of contracting the same; provided, however, anything to the contrary herein notwithstanding, when two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when the qualified electors of the City, voting at an election for that purpose have indicated their assent as then required by the Constitution of the State of California, such proposition shall be deemed adopted. No contract, agreement or obligation extending for a period of more than five years may be authorized except by ordinance adopted by a two-thirds' majority vote of the members elected to the Council after holding a public hearing which has been duly noticed in the official City newspaper at least ten days in advance.

(Amendment voted 04-22-1941; effective 05-08-1941.)

(Amendment voted 06-04-1968; effective 07-22-1968.)

Section 99.1: Sports Stadium

For the purpose of acquiring, constructing and completing on a site in Mission Valley not to exceed 200 acres and lying westerly of Murphy Canyon Road, northerly of Highway 80 and southerly of Friars Road, and maintaining and operating thereon a coliseum, stadium, sports arena, sports pavilion or other building, or combination thereof, and facilities and appurtenances necessary or convenient therefor, for holding sports events, athletic contests, contests of skill, exhibitions and spectacles and other public meetings, the City may, in addition to other legal methods, enter into contracts, leases or other agreements not to exceed fifty years with any other public agency or agencies, and the provisions of Sections 80 and 99 of this Charter shall not be applicable thereto.

(Addition voted 11-02-1965; effective 02-10-1966.)

Section 100: No Favoritism in Public Contracts

No officer or employee of the City shall aid or assist a bidder in securing a contract to furnish labor, or material, or supplies at a higher price or rate than that proposed by any other bidder, or shall favor one bidder over another, by giving or withholding information, or shall willfully mislead any bidder in regard to the character of the material or supplies called for, or shall knowingly accept materials or supplies of a quality inferior to that called for by the contract, or shall knowingly certify to a greater amount of labor performed than has actually been performed, or to the receipt of a greater amount of material or supplies than has actually been received. Any officer or employee found guilty of violation of this Section shall forfeit his position immediately.

Exhibit 11

City Employees Retirement System

June 4, 1996*

Proposal

It is the City Manager's intent to recommend changes to the City Employees Retirement System related to: (1) retiree health insurance, (2) retirement plan benefits, (3) employer contribution rates, and (4) retirement system reserves. These proposed changes to plan benefits, retiree health insurance, employer rates and system reserves will require approval of the City Council, CERS Board of Administration as well as an affirmative vote of plan members. The City Manager's proposal is being reviewed by outside fiduciary counsel engaged through the City Attorney's Office and has been presented to the CERS Board's fiduciary counsel and actuary for review and advice to the Board. All proposed changes are conditioned upon and subject to final approval by fiduciary counsel, City Council approval, Retirement Board approval, vote of plan participants, and confirmation of cost estimates by the System's actuary.

The interrelationship of these various issues to each other necessitate that the entire proposal be considered and acted upon concurrently. Furthermore, the substantial financial implications to the City compel that certain actions occur in time for Fiscal Year 1997 budget decisions. Necessary ordinances can be prepared for formal amendments to the Municipal Code subsequent to actions by appropriate bodies (City Council, CERS Board, Plan Participants, Employee Unions). Following are the proposed changes.

Issue No. 1 - RETIREE HEALTH INSURANCE

- A. Move the Retiree Health Insurance from the City to CERS no later than June 30, 1997.
- B. Pay for Retiree Health Insurance for FY 97 from the Retiree Health Insurance Trust.
- C. Increase premium reimbursement for POA and Local 145 Retiree Health Plans from \$4500/year to \$4995 only for FY97.
- D. Establish Pre-1980 Retiree Health Insurance as a permanent benefit at a level of \$600 per year.
- E. During FY97, a Task Force of City Manager, CERS Board and Labor Organizations working with actuaries, consultants and legal counsel can develop the necessary documentation to design a tax exempt health insurance benefit to be effective July 1, 1997. The Task Force will recommend benefit level subject to approval by CERS, City Council, and issue an RFP for selection of a common provider. POA and Local 145 will assume full responsibility for any incurred claims under existing health insurance policies.
- F. The existing City Health Insurance Trust (@ \$12.5m) will be used to pay for FY96 Retiree Health Insurance.

(*modified 6/5/96)

- G. CERS will establish a Health Insurance Reserve within CERS. Each year, the upcoming year's projected cost of retiree health insurance will be transferred from undistributed earnings and credited to the Health Insurance Reserve.
- H. Actual premium costs and administrative charges will be charged to the Health Insurance Reserve on a pay-as-you-go basis and will not be actuarially funded.

Issue No. 2 - CERS BENEFIT CHANGES

- A. Eliminate the existing requirement to offset Disability Income.
- B. Purchase of Service Credit: Continue the existing service credit provisions related to refunds, probationary periods, 1981 Plan waiting period and Military & Veteran Code; incorporate all others into a new general provision of a five (5) year purchase of service credit feature, which would also be available to 1/2 time and 3/4 time employees. Employees would pay into the retirement fund an amount, including interest, equivalent to the employee and employer full cost of such service.
- C. Increase the calculation of the 13th Check for Pre-10/6/80 retirees from \$30 per creditable year of service to \$60 per creditable year of service, and to \$75 per creditable year of service for Pre-12/31/71 retirees.
- D. Increase the benefit to General Members for industrial disability retirements from 33-1/3% to 50%; and increase the General Member formula as described below.

General Member Formula

Age	Present Factor	Proposed Factor
55	1.48%	2.00%
56	1.56%	2.00%
57	1.63%	2.00%
58	1.72%	2.00%
59	1.81%	2.08%
60	1.92%	2.16%
61	1.99%	2.24%
62	2.09%	2.31%
63	2.20%	2.39%
64	2.31%	2.47%
65+	2.43%	2.55%

Cost of General Member Improvements:

	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+1.11%	+1.10%	+2.21%
<u>Past Liability</u>	<u>+1.43%</u>		<u>+1.43%</u>
TOTAL COST	+2.54%	+1.10%	+3.64%

Past liability for these two benefit improvements will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97. The employee's share will be paid from excess earnings for FY97, and by increasing the employee's contribution in FY98 and FY99 as follows: +.55% on 12/27/97 and +.55% effective the earliest date in FY99 that General Employees receive a salary increase.

- E. Improve Lifeguard Safety Member Formula as follows and establish a 90% cap. Any employee's who are eligible for a percentage above 90% on 4/1/97, the effective date of implementation of the DROP will be frozen at their rate in effect on 4/1/97. Past liability for this benefit improvement will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97. The employee's share will be paid from excess earnings in FY97, and by increasing the employee's contribution in FY98 and FY99 as follows: +.245% on 12/27/97 and +.245% effective the earliest date in FY99 that Lifeguard employees receive a salary increase.

Age	Present Factor	Proposed Factor
50	2.00%	2.20%
51	2.10%	2.32%
52	2.22%	2.44%
53	2.34%	2.57%
54	2.47%	2.72%
55+	2.62%	2.77%

Cost of Lifeguard Safety Member Improvements:

	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+.49%	+.49%	+.98%
<u>Past Liability</u>	<u>+.53</u>		<u>+.53%</u>
TOTAL COST	+1.02%	+.49%	+1.51%

- F. Improve Police and Fire Safety Member Formula as follows and establish a 90% cap. Any employee's who are eligible for a percentage above 90% on 4/1/97, the effective date of implementation of the DROP will be frozen at their rate in effect on 4/1/97. Past liability for this benefit improvement will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's shall will be added to the actuarial rate (PUC) calculations beginning mid-year FY97.

Age	Fire Factor	Police Factor	Proposed Factor for Fire & Police
50	2.20%	2.50%	2.50%
51	2.32%	2.54%	2.60%
52	2.44%	2.58%	2.70%
53	2.57%	2.62%	2.80%
54	2.72%	2.66%	2.90%
55+	2.77%	2.70%	2.9999%

Cost of Safety Member Improvements:

<u>FIRE</u>	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .73%	+ .72%	+1.45%
<u>Past Liability</u>	<u>+ .91%</u>		<u>+ .91%</u>
Total	+1.64%	+ .72%	+2.36%

Fire employees will pay one-half of the normal cost by an increase in the employee contribution of .72% effective 7/1/98.

<u>POLICE</u>	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .47%	+ .47%	+ .94%
<u>Past Liability</u>	<u>+ .91%</u>		<u>+ .91%</u>
Total	+1.38%	+ .47%	+1.85%

Police employees will pay one-half of the normal cost by an increase in the employee contribution of .47% effective 7/1/98.

- G. The City agrees to implementation of a *Deferred Retirement Option Plan* (DROP) effective April 1, 1997, on the condition that such a plan is approved by the City Attorney's Office as legal under applicable Federal, State and Local laws and regulations, and that such a plan would not increase cost greater than the savings to the City nor CERS. Employees may participate in this program for up to five (5) years. At the end of three (3) years, the City will evaluate the cost impact of this program. If the cost impact to the City or CERS is greater than the savings, the City agrees to meet and confer to impasse prior to imposing any changes in the DROP Plan. If the City proposes to change the DROP Plan, the 90% cap on CERS would also be re-negotiated. Employee's who elect to participate in DROP will cease participation in CERS, and will participate in SPSP-type plan with a mandatory 3.05% employee contribution matched by 3.05% employer contribution.

Issue No. 3 - EMPLOYER CONTRIBUTION RATES

- A. Employer rates will be calculated using the Projected Unit Credit (PUC) method. For FY96 and FY97, the City will pay the budgeted rates (bifurcated rate) of 7.08% (blended rate) and 7.33% respectively, and increase the rate paid by 0.50% each year until the rate paid reaches the EAN calculated rate. At such time as the PUC and Entry Age Normal (EAN) rates are equal, the System will convert to EAN.

Employer Contribution Rate Stabilization Plan

Period	PUC Rate	City Paid Rate	Difference %	Difference \$
FY96	8.60%	7.08%	1.52%	\$5.33m
FY97	10.87%	7.33%	3.79%	\$13.88m
FY98	12.18%	7.83%	4.35%	\$16.67m
FY99	12.18%	8.33%	3.85%	\$15.40m
FY2000	12.18%	8.83%	3.35%	\$14.00m
FY2001	12.18%	9.33%	2.85%	\$12.45m
FY2002	12.18%	9.83%	2.35%	\$10.72m
FY2003	12.18%	10.33%	1.85%	\$8.82m
FY2004	12.18%	10.83%	1.35%	\$6.73m
FY2005	12.18%	11.33%	.85%	\$4.43m
FY2006	12.18%	11.83%	.35%	\$1.91m
FY2007	12.18%	12.18%	-0-	-0-
FY2008	13.00	13.00%	-0-	-0-
TOTAL				\$110.35*

*\$110.35 million paid from excess earnings includes \$71.31 million in contributions as a result of benefits improvements recommended herein.

- B. The City will pay the agreed to rates shown above for FY96 through FY2007. The difference between the actuarially calculated rate and the agreed to rate would be transferred from the Stabilization Reserve to the Employers Contribution Reserve. If the amount in the Stabilization Reserve is insufficient to pay the difference in contributions or the funded ratio of the System falls by more than 10% below the funded ratio calculated at the June 30, 1996 valuation, this plan will sunset the year following the actuarial valuation which shows this funded ratio.
- C. There will be no changes in actuarial assumptions or actuarial methodology which would impact employer contribution rates prior to July 1, 2007. If the CERS Board feels its fiduciary responsibility requires a change to actuarial assumptions prior to that date due to extraordinary circumstances, the increase in rate will be added to the PUC rate to be achieved through the phased-in rate increases.

Issue No. 4 - SURPLUS UNDISTRIBUTED EARNINGS AND RESERVES

- A. Create a Contingency Reserve not to exceed 1% of System assets at market value. If undistributed earnings are insufficient, funds from the Contingency Reserve will be used, in priority order after crediting the employee and employer reserves and funding the Systems budget, to: (1) pay the insurance premium, (2) pay the 13th check. If the Health Insurance reserve and the contingency reserve were insufficient, the city would be responsible for that year's health insurance premium.
- B. Create a Stabilization Reserve not to exceed \$75 million, as follows: (1) close and transfer the existing "earnings stabilization reserve (\$10.7 million), (2) credit this reserve annually with 50% of "surplus" undistributed earnings. All surplus undistributed earnings will be transferred to the employer contribution reserve when and if the \$75 million limit is reached. These assets will be held outside of assets used for actuarial valuation.

Management Proposal to POA - Changes to Retirement System

Attached hereto is Management's Proposal related to Retirement System Changes Dated June 4, 1996. This Proposal is conditioned upon confirmation by the CERS Actuary as to the costs of changes contained in the Proposal, and approval of the CERS Fiduciary Council, City Attorney and City Fiduciary Council including among other issues IRS 415 issues; and final approval of the CERS Board of Administration and by the City Council.

POA hereby agrees to and will support this Proposal when it is considered by the CERS Board of Administration and by the City Council, and with its members during the Vote of Retirement System Members.

POA shall have the right to approval final Municipal Code language implementing the terms of this agreement.

City of San Diego

6-5-96
Date

Harry Collins
POA President

06-05-96
Date

R- 287582

City Employees Retirement System

June 4, 1996*

Proposal

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The interrelationship of these various issues to each other necessitate that the entire proposal be considered and acted upon concurrently. Furthermore, the substantial financial implications to the City compel that certain actions occur in time for Fiscal Year 1997 budget decisions. Necessary ordinances can be prepared for formal amendments to the Municipal Code subsequent to actions by appropriate bodies (City Council, CERS Board, Plan Participants, Employee Unions). Following are the proposed changes.

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- F. The existing City Health Insurance Trust (@ \$12.5m) will be used to pay for FY96 Retiree Health Insurance.

(*modified 6/5/96)

- G. CERS will establish a Health Insurance Reserve within CERS. Each year, the upcoming year's projected cost of retiree health insurance will be transferred from undistributed earnings and credited to the Health Insurance Reserve.
- H. Actual premium costs and administrative charges will be charged to the Health Insurance Reserve on a pay-as-you-go basis and will not be actuarially funded.

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- C. Increase the calculation of the 13th Check for Pre-10/6/80 retirees from \$30 per creditable year of service to \$60 per creditable year of service, and to \$75 per creditable year of service for Pre-12/31/71 retirees.
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60	1.92%	2.16%
61	1.99%	2.24%
62	2.09%	2.31%
63	2.20%	2.39%
64	2.31%	2.47%
65+	2.43%	2.55%

Cost of General Member Improvements:

	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+1.11%	+1.10%	+2.21%
<u>Past Liability</u>	<u>+1.43%</u>	<u> </u>	<u>+1.43%</u>
TOTAL COST	+2.54%	+1.10%	+3.64%

Past liability for these two benefit improvements will be paid for by the City through excess earnings.. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97. The employee's share will be paid from excess earnings for FY97, and by increasing the employee's contribution in FY98 and FY99 as follows: +.55% on 12/27/97 and +.55% effective the earliest date in FY99 that General Employees receive a salary increase.

- E. Improve Lifeguard Safety Member Formula as follows and establish a 90% cap. Any employee's who are eligible for a percentage above 90% on 4/1/97, the effective date of implementation of the DROP will be frozen at their rate in effect on 4/1/97. Past liability for this benefit improvement will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97. The employee's share will be paid from excess earnings in FY97, and by increasing the employee's contribution in FY98 and FY99 as follows: +.245% on 12/27/97 and +.245% effective the earliest date in FY99 that Lifeguard employees receive a salary increase.

Age	Present Factor	Proposed Factor
50	2.00%	2.20%
51	2.10%	2.32%
52	2.22%	2.44%
53	2.34%	2.57%
54	2.47%	2.72%
55+	2.62%	2.77%

Cost of Lifeguard Safety Member Improvements:

	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .49%	+ .49%	+ .98%
<u>Past Liability</u>	<u>+ .53</u>	<u> </u>	<u>+ .53%</u>
TOTAL COST	+1.02%	+ .49%	+1.51%

- F. Improve Police and Fire Safety Member Formula as follows and establish a 90% cap. Any employee's who are eligible for a percentage above 90% on 4/1/97, the effective date of implementation of the DROP will be frozen at their rate in effect on 4/1/97. Past liability for this benefit improvement will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's shall will be added to the actuarial rate (PUC) calculations beginning mid-year FY97.

Age	Fire Factor	Police Factor	Proposed Factor for Fire & Police
50	2.20%	2.50%	2.50%
51	2.32%	2.54%	2.60%
52	2.44%	2.58%	2.70%
53	2.57%	2.62%	2.80%
54	2.72%	2.66%	2.90%
55+	2.77%	2.70%	2.9999%

Cost of Safety Member Improvements:

<u>FIRE</u>	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .73%	+ .72%	+1.45%
<u>Past Liability</u>	<u>+ .91%</u>		<u>+ .91%</u>
Total	+1.64%	+ .72%	+2.36%

Fire employees will pay one-half of the normal cost by an increase in the employee contribution of .72% effective 7/1/98.

<u>POLICE</u>	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .47%	+ .47%	+ .94%
<u>Past Liability</u>	<u>+ .91%</u>		<u>+ .91%</u>
Total	+1.38%	+ .47%	+1.85%

Police employees will pay one-half of the normal cost by an increase in the employee contribution of .47% effective 7/1/98.

- G. The City agrees to implementation of a *Deferred Retirement Option Plan* (DROP) effective April 1, 1997, on the condition that such a plan is approved by the City Attorney's Office as legal under applicable Federal, State and Local laws and regulations, and that such a plan would not increase cost greater than the savings to the City nor CERS. Employees may participate in this program for up to five (5) years. At the end of three (3) years, the City will evaluate the cost impact of this program. If the cost impact to the City or CERS is greater than the savings, the City agrees to meet and confer to impasse prior to imposing any changes in the DROP Plan. If the City proposes to change the DROP Plan, the 90% cap on CERS would also be re-negotiated. Employee's who elect to participate in DROP will cease participation in CERS, and will participate in SPSP-type plan with a mandatory 3.05% employee contribution matched by 3.05% employer contribution.

Issue No. 3 - EMPLOYER CONTRIBUTION RATES

- A. Employer rates will be calculated using the Projected Unit Credit (PUC) method. For FY96 and FY97, the City will pay the budgeted rates (bifurcated rate) of 7.08% (blended rate) and 7.33% respectively, and increase the rate paid by 0.50% each year until the rate paid reaches the EAN calculated rate. At such time as the PUC and Entry Age Normal (EAN) rates are equal, the System will convert to EAN.

Employer Contribution Rate Stabilization Plan

Period	PUC Rate	City Paid Rate	Difference %	Difference \$
FY96	8.60%	7.08%	1.52%	\$5.33m
FY97	10.87%	7.33%	3.79%	\$13.88m
FY98	12.18%	7.83%	4.35%	\$16.67m
FY99	12.18%	8.33%	3.85%	\$15.40m
FY2000	12.18%	8.83%	3.35%	\$14.00m
FY2001	12.18%	9.33%	2.85%	\$12.45m
FY2002	12.18%	9.83%	2.35%	\$10.72m
FY2003	12.18%	10.33%	1.85%	\$8.82m
FY2004	12.18%	10.83%	1.35%	\$6.73m
FY2005	12.18%	11.33%	.85%	\$4.43m
FY2006	12.18%	11.83%	.35%	\$1.91m
FY2007	12.18%	12.18%	-0-	-0-
FY2008	13.00	13.00%	-0-	-0-
TOTAL				\$110.35*

*\$110.35 million paid from excess earnings includes \$71.31 million in contributions as a result of benefits improvements recommended herein.

- B. The City will pay the agreed to rates shown above for FY96 through FY2007. The difference between the actuarially calculated rate and the agreed to rate would be transferred from the Stabilization Reserve to the Employers Contribution Reserve. If the amount in the Stabilization Reserve is insufficient to pay the difference in contributions or the funded ratio of the System falls by more than 10% below the funded ratio calculated at the June 30, 1996 valuation, this plan will sunset the year following the actuarial valuation which shows this funded ratio.
- C. There will be no changes in actuarial assumptions or actuarial methodology which would impact employer contribution rates prior to July 1, 2007. If the CERS Board feels its fiduciary responsibility requires a change to actuarial assumptions prior to that date due to extraordinary circumstances, the increase in rate will be added to the PUC rate to be achieved through the phased-in rate increases.

Issue No. 4 - SURPLUS UNDISTRIBUTED EARNINGS AND RESERVES

- A. Create a Contingency Reserve not to exceed 1% of System assets at market value. If undistributed earnings are insufficient, funds from the Contingency Reserve will be used, in priority order after crediting the employee and employer reserves and funding the Systems budget, to: (1) pay the insurance premium, (2) pay the 13th check. If the Health Insurance reserve and the contingency reserve were insufficient, the city would be responsible for that year's health insurance premium.
- B. Create a Stabilization Reserve not to exceed \$75 million, as follows: (1) close and transfer the existing "earnings stabilization reserve (\$10.7 million), (2) credit this reserve annually with 50% of "surplus" undistributed earnings. All surplus undistributed earnings will be transferred to the employer contribution reserve when and if the \$75 million limit is reached. These assets will be held outside of assets used for actuarial valuation.

Management Proposal to MEA for a FY98 Extension of MOU

Following is Management's Proposal related to a one year extension of the current MOU between the City of San Diego and the Municipal Employees Association (MEA). This proposal is conditioned upon MEA also accepting the terms of the Manager's Proposal of CERS Retirement System Changes Dated June 4, 1996, attached hereto (CERS Proposal); conditioned upon the support of MEA for the CERS Proposal when the proposal is considered by the CERS Board and City Council; support of MEA when the CERS Proposal is presented to CERS Plan Participants for a Vote; conditioned upon confirmation by the CERS Actuary as to the costs of changes contained in the Proposal, and approval of the CERS Fiduciary Council, City Attorney and City Fiduciary Council including among other issues IRS 415 issues; and final approval of the CERS proposal and this proposal by the City Council.

1. Salary: +4% 12/27/97

 +5% for Legal Secretaries, Sr. Legal Secretaries,
 Executive Secretaries and Principal Clerks effective 1/1/98.
2. Flex Article: Reopener in FY98 on Flex Value and design including discussions regarding the use of Retiree Health Insurance Trust
3. EMT Pay: Effective July 1, 1997, all Lifeguard II, Lifeguard III, Lifeguard Sergeants and Lifeguard Lieutenants who are EMT certified will receive an additional 2% of base pay. Effective July 1, 1997, a random drug/alcohol testing program comparable to Fire Department's design will be implemented.
4. Annual Leave:
 - a. Cease to accrue language effective 7/1/97 modified to address circumstances in which employee was not able to reduce leave balance, after selling back maximum allowed hours, due to having requests for leave denied.
 - b. Eliminate minimum hrs required to sell 125 hrs pay in lieu
 - c. Increase maximum accumulation for hires after 7/1/93 from 250 hrs to 350 hrs
8. Employee's retirement contribution: General Members increases by .55% on 12/27/97 and by .55% on the date of MEA's general salary increase in FY99 to pay employee's half of normal cost of retirement formula improvements going into effect on January 1, 1997. Lifeguard Members retirement contribution increases by .245% on 12/27/97 and by .245% on the date of MEA general salary increase if FY99.

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9. 4/10 Work Schedules for Lifeguards

The City agrees to develop a plan to implement 4/10 work schedules for Lifeguards with the understanding that any such work schedule would have no cost impact to the City, nor negative impact on service level. If such a plan can be agreed to, the City will implement a pilot 4/10 schedule. The City will retain the unilateral right to return to the prior schedule should costs or service levels be negatively impacted.

10. Article 10 - Personnel Practices

E.

1. Performance Reports: Add - The approval for late EPR's should be submitted to employee in writing, and include reasons for the delay and approval.

City rejects MEA proposal that approvals for late EPR's are not to be granted for EPR's for less than satisfactory ratings.

2. Add: An employee shall only be rated by the immediate supervisor. If the first line supervisor is unavailable, the next higher level supervisor will be the rater. The rater should consult with the OCA supervisor(s) during the rating period for input.

City generally agrees to MEA proposal that employees have a Performance Plan Conference when employee is assigned to a new supervisor, however this should apply only when a new permanent supervisor is assigned (not for temporary assignments, light duty assignments, short term OCA's etc).

City accepts MEA proposal that Performance Development Plans for Satisfactory or better employees must be subject to mutual agreement.

The City agrees to a joint committee to discuss guidelines and trainings related to incorporation of performance based measurements into EPR's. MEA shall have three representatives on this committee.

11. Special Salary Adjustments: MEA proposals to the Civil Service Commission for studies of special salary increases may only be submitted with Management concurrence.

12. Article 28: Flexible Benefits.

City agrees to continue to pay the Flex Allocation up to 12 months for employees on TTD or Vocational Rehabilitation, however only for employees on internal TTD or Vocational Rehab.

13. Article 38: Transportation Programs
Mileage reimbursement rate shall be \$.32 effective 7/1/96 and \$.33 effective 7/1/97.

City agrees to providing mileage checks within 2 weeks of submitting timely and accurate requests.
14. Article 57: Overtime
City and MEA will prepare a *Scheduled Overtime Distribution Procedure* for the Bureau of Lifeguard Services by June 30, 1996.
15. Article 59: LTD/Industrial Leave
City agrees to base LTD benefit on earnings of employee at time employee is removed from work due to disability.
16. Article 81: Training Reimbursement
City agrees to MEA proposal providing increased flexibility of tuition reimbursement to cover training situations not currently covered.
17. Article 88 (new): Voluntary Certification Pay
The City and MEA agree to meet and confer regarding the City's proposed voluntary certification program. If agreement is not reached, there shall be no implementation of the program through the term of this MOU.
18. Article 89 (new): Pilot Performance Management Program
The City and MEA agree to meet and confer regarding the City's proposed Pilot Performance Management Program. If agreement is not reached, there shall be no implementation of the program through the term of this MOU.
19. 5% Special Assignment Pay: Effective July 1, 1997, Water Utility Supervisors who are assigned to confined space entry teams for each pay period in which the employee was required to assist with, supervise and/or make one or more confined space entries. It is also the City's intent to provide dry suits and Hepatitis B shots for these employees July 1, 1996.

Cathy Lefevre
City of San Diego

6/5/96
Date

Guido M. Salinas 6/5/96
MEA Date

City Employees Retirement System
June 4, 1996

Proposal

It is the City Manager's intent to recommend changes to the City Employees Retirement System related to: (1) retiree health insurance, (2) retirement plan benefits, (3) employer contribution rates, and (4) retirement system reserves. These proposed changes to plan benefits, retiree health insurance, employer rates and system reserves will require approval of the City Council, CERS Board of Administration as well as an affirmative vote of plan members. The City Manager's proposal is being reviewed by outside fiduciary counsel engaged through the City Attorney's Office and has been presented to the CERS Board's fiduciary counsel and actuary for review and advice to the Board. All proposed changes are conditioned upon and subject to final approval by fiduciary counsel, City Council approval, Retirement Board approval, vote of plan participants, and confirmation of cost estimates by the System's actuary.

The interrelationship of these various issues to each other necessitate that the entire proposal be considered and acted upon concurrently. Furthermore, the substantial financial implications to the City compel that certain actions occur in time for Fiscal Year 1997 budget decisions. Necessary ordinances can be prepared for formal amendments to the Municipal Code subsequent to actions by appropriate bodies (City Council, CERS Board, Plan Participants, Employee Unions). Following are the proposed changes.

Issue No. 1 - RETIREE HEALTH INSURANCE

- A. Move the Retiree Health Insurance from the City to CERS no later than June 30, 1997.
- B. Pay for Retiree Health Insurance for FY 97 from the Retiree Health Insurance Trust.
- C. Increase cap for POA and Local 145 Retiree Health Plans from \$4500/year to \$4995 only for FY97.
- D. Establish Pre-1980 Retiree Health Insurance as a permanent benefit at a level of \$600 per year.
- E. During FY97, a Task Force of City Manager, CERS Board and Labor Organizations working with actuaries, consultants and legal counsel can develop the necessary documentation to design a tax exempt health insurance benefit to be effective July 1, 1997. ~~The Task Force will recommend benefit level subject to approval by CERS, City Council, and issue an RFP for selection of a common provider. POA and Local 145 will assume full responsibility for any incurred claims under existing health insurance policies.~~
- F. The existing City Health Insurance Trust (@ \$12.5m) will be used to pay for FY96 Retiree Health Insurance.

- G. CERS will establish a Health Insurance Reserve within CERS. Each year, the upcoming year's projected cost of retiree health insurance will be transferred from undistributed earnings and credited to the Health Insurance Reserve.
- H. Actual premium costs and administrative charges will be charged to the Health Insurance Reserve on a pay-as-you-go basis and will not be actuarially funded.

Issue No. 2 - CERS BENEFIT CHANGES

- A. Eliminate the existing requirement to offset Disability Income.
- B. Purchase of Service Credit: Continue the existing service credit provisions related to refunds, probationary periods, 1981 Plan waiting period and Military & Veteran Code; incorporate all others into a new general provision of a five (5) year purchase of service credit feature, which would also be available to 1/2 time and 3/4 time employees. Employees would pay into the retirement fund an amount, including interest, equivalent to the employee and employer full cost of such service.
- C. Increase the calculation of the 13th Check for Pre-10/6/80 retirees from \$30 per creditable year of service to \$60 per creditable year of service, and to \$75 per creditable year of service for Pre-12/31/71 retirees.
- D. Increase the benefit to General Members for industrial disability retirements from 33-1/3% to 50%; and increase the General Member formula as described below.

General Member Formula

Age	Present Factor	Proposed Factor
55	1.48%	2.00%
56	1.56%	2.00%
57	1.63%	2.00%
58	1.72%	2.00%
59	1.81%	2.08%
60	1.92%	2.16%
61	1.99%	2.24%
62	2.09%	2.31%
63	2.20%	2.39%
64	2.31%	2.47%
65+	2.43%	2.55%

Cost of General Member Improvements:

	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+1.11%	+1.10%	+2.21%
<u>Past Liability</u>	<u>+1.43%</u>	<u> </u>	<u>+1.43%</u>
TOTAL COST	+2.54%	+1.10%	+3.64%

Past liability for these two benefit improvements will be paid for by the City through excess earnings.. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's share will be added to the actuarial rate (PUC) calculations beginning mid-year FY97. The employee's share will be paid from excess earnings for FY97, and by increasing the employee's contribution in FY98 and FY99 as follows: +.55% on 12/27/97 and +.55% effective the earliest date in FY99 that General Employees receive a salary increase.

- E. Improve Lifeguard Safety Member Formula as follows and establish a 90% cap. Any employee's who are eligible for a percentage above 90% on 4/1/97, the effective date of implementation of the DROP will be frozen at their rate in effect on 4/1/97. Past liability for this benefit improvement will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's shall will be added to the actuarial rate (PUC) calculations beginning mid-year FY97. The employee's share will be paid from excess earnings in FY97, and by increasing the employee's contribution in FY98 and FY99 as follows: +.245% on 12/27/97 and +.245% effective the earliest date in FY99 that Lifeguard employees receive a salary increase.

Age	Present Factor	Proposed Factor
50	2.00%	2.20%
51	2.10%	2.32%
52	2.22%	2.44%
53	2.34%	2.57%
54	2.47%	2.72%
55+	2.62%	2.77%

Cost of Lifeguard Safety Member Improvements:

	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+.49%	+.49%	+.98%
<u>Past Liability</u>	<u>+.53</u>	<u> </u>	<u>+.53%</u>
TOTAL COST	+1.02%	+.49%	+1.51%

- F. Improve Police and Fire Safety Member Formula as follows and establish a 90% cap. Any employee's who are eligible for a percentage above 90% on 4/1/97, the effective date of implementation of the DROP will be frozen at their rate in effect on 4/1/97. Past liability for this benefit improvement will be paid for by the City through excess earnings. Normal cost (prospective costs) will be paid for equally by employee and employer. The employer's shall will be added to the actuarial rate (PUC) calculations beginning mid-year FY97.

Age	Fire Factor	Police Factor	Proposed Factor for Fire & Police
50	2.20%	2.50%	2.50%
51	2.32%	2.54%	2.60%
52	2.44%	2.58%	2.70%
53	2.57%	2.62%	2.80%
54	2.72%	2.66%	2.90%
55+	2.77%	2.70%	2.9999%

Cost of Safety Member Improvements:

<u>FIRE</u>	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .73%	+ .72%	+1.45%
<u>Past Liability</u>	<u>+ .91%</u>		<u>+ .91%</u>
Total	+1.64%	+ .72%	+2.36%

Fire employees will pay one-half of the normal cost over two years as follows: +.36% on 4/1/98 and +.36% on 1/1/99.

<u>POLICE</u>	<u>Employer-Paid</u>	<u>Employee-Paid</u>	<u>Total Cost</u>
Normal Cost	+ .47%	+ .47%	+ .94%
<u>Past Liability</u>	<u>+ .91%</u>		<u>+ .91%</u>
Total	+1.38%	+ .47%	+1.85%

Police employees will pay one-half of the normal cost over two years as follows: +.235% on 1/1/98 and +.235% on 1/1/99.

- G. The City agrees to implementation of a *Deferred Retirement Option Plan* (DROP) effective April 1, 1997, on the condition that such a plan is approved by the City Attorney's Office as legal under applicable Federal, State and Local laws and regulations, and that such a plan would have no cost impact to the City nor CERS. Employees may participate in this program for up to five (5) years. At the end of three (3) years the evaluate the impact of this program and reserves the unilateral right to prospectively terminate the program. Employee's who elect to participate in DROP will cease participation in CERS, and will participate in SPSP-type plan with a mandatory 3.05% employee contribution matched by 3.05% employer contribution.

Issue No. 3 - EMPLOYER CONTRIBUTION RATES

- A. Employer rates will be calculated using the Projected Unit Credit (PUC) method. For FY96 and FY97, the City will pay the budgeted rates (bifurcated rate) of 7.08% (blended rate) and 7.33% respectively, and increase the rate paid by 0.50% each year until the rate paid reaches the EAN calculated rate. At such time as the PUC and Entry Age Normal (EAN) rates are equal, the System will convert to EAN.

Employer Contribution Rate Stabilization Plan

Period	PUC Rate	City Paid Rate	Difference %	Difference \$
FY96	8.60%	7.08%	1.52%	\$5.33m
FY97	10.87%	7.33%	3.79%	\$13.88m
FY98	12.18%	7.83%	4.35%	\$16.67m
FY99	12.18%	8.33%	3.85%	\$15.40m
FY2000	12.18%	8.83%	3.35%	\$14.00m
FY2001	12.18%	9.33%	2.85%	\$12.45m
FY2002	12.18%	9.83%	2.35%	\$10.72m
FY2003	12.18%	10.33%	1.85%	\$8.82m
FY2004	12.18%	10.83%	1.35%	\$6.73m
FY2005	12.18%	11.33%	.85%	\$4.43m
FY2006	12.18%	11.83%	.35%	\$1.91m
FY2007	12.18%	12.18%	-0-	-0-
FY2008	13.00	13.00%	-0-	-0-
TOTAL				\$110.35*

*\$110.35 million paid from excess earnings includes \$71.31 million in contributions as a result of benefits improvements recommended herein.

- B. The City will pay the agreed to rates shown above for FY96 through FY2007. The difference between the actuarially calculated rate and the agreed to rate would be transferred from the Stabilization Reserve to the Employers Contribution Reserve. If the amount in the Stabilization Reserve is insufficient to pay the difference in contributions or the funded ratio of the System falls by more than 10% below the funded ratio calculated at the June 30, 1996 valuation, this plan will sunset the year following the actuarial valuation which shows this funded ratio.
- C. There will be no changes in actuarial assumptions or actuarial methodology which would impact employer contribution rates prior to July 1, 2007. If the CERS Board feels its fiduciary responsibility requires a change to actuarial assumptions prior to that date due to extraordinary circumstances, the increase in rate will be added to the PUC rate to be achieved through the phased-in rate increases.

Issue No. 4 - SURPLUS UNDISTRIBUTED EARNINGS AND RESERVES

- A. Create a Contingency Reserve not to exceed 1% of System assets at market value. If undistributed earnings are insufficient, funds from the Contingency Reserve will be used, in priority order after crediting the employee and employer reserves and funding the Systems budget, to: (1) pay the insurance premium, (2) pay the 13th check. If the Health Insurance reserve and the contingency reserve were insufficient, the city would be responsible for that year's health insurance premium.
- B. Create a Stabilization Reserve not to exceed \$75 million, as follows: (1) close and transfer the existing "earnings stabilization reserve (\$10.7 million), (2) credit this reserve annually with 50% of "surplus" undistributed earnings. All surplus undistributed earnings will be transferred to the employer contribution reserve when and if the \$75 million limit is reached. These assets will be held outside of assets used for actuarial valuation.

Management Proposal to Local 145 for a FY98 Extension of MOU

Following is Management's Proposal related to a one year extension of the current MOU between the City of San Diego and Local 145. This proposal is conditioned upon Local 145 also accepting the terms of the Manager's Proposal of CERS Retirement System Changes Dated June 4, 1996 attached hereto (CERS Proposal); conditioned upon the support of Local 145 for the CERS Proposal when the proposal is considered by the CERS Board and City Council; support of Local 145 when the CERS Proposal is presented to CERS Plan Participants for a Vote; conditioned upon confirmation by the CERS Actuary as to the costs of changes contained in the Proposal, and approval of the CERS Fiduciary Council, City Attorney and City Fiduciary Council including among other issues IRS 415 compliance; and final approval of the CERS proposal and this proposal by the City Council.

1. Salary: +2% 10/1/97
 +2% 4/1/98
2. Flex Article: Reopener in FY98
 Task Force recommendations to be concluded by January 1, 1997
3. EMT Pay: Increase from 2% to 3-1/2% 7/1/97
 Increase from 3-1/2% to 3-3/4% 1/1/98
4. Captains: +4% 4/1/98
5. \$200/yr tool allowance for D-Division (ongoing) each year during September
6. Special Assignment Pay:
 Station 28 (all personnel) 5% beginning 7/1/96
 MAST (all personnel) 5% beginning 7/1/97
 HazMat (all personnel) 5% increase beginning 7/1/97
7. Annual Leave:
 - a. Cease to accrue language effective 7/1/97 modified to address constant staffing requirements;
 - b. Reduce minimum from 250 hrs to 160 hrs to sell pay in lieu
 - c. Increase maximum accumulation for hires after 7/1/94 from 250 hrs to 350 hrs
8. Employee's retirement contribution increases by .72% effective 7/1/98 to pay employee's half of normal cost of retirement formula improvements going into effect on January 1, 1997.
9. City agrees not to propose reductions in retirement offset through 2002.
10. Local 145 shall have the right to approve final Municipal Code language implementing the terms of the retirement proposal.

R - 287532

11. Re-opener on issue of transferring Bureau positions to Development Services; to be resolved by January 1, 1997. If no agreement reached, normal impasse procedure will be used.

Cathy Lepin
City of San Diego

6-5-96
Date

[Signature] 6/5/96
Local 145 Date